S. HRG. 111–10

COPING WITH THE FORECLOSURE CRISIS: STATE AND LOCAL EFFORTS TO COMBAT FORECLOSURES IN PRINCE GEORGE'S COUNTY, MARYLAND

HEARING

BEFORE THE

CONGRESSIONAL OVERSIGHT PANEL

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

FEBRUARY 27, 2009

Printed for the use of the Congressional Oversight Panel

COPING WITH THE FORECLOSURE CRISIS: STATE AND LOCAL EFFORTS TO COMBAT FORECLOSURES IN PRINCE GEORGE'S COUNTY, MARYLAND

S. HRG. 111–10

COPING WITH THE FORECLOSURE CRISIS: STATE AND LOCAL EFFORTS TO COMBAT FORECLOSURES IN PRINCE GEORGE'S COUNTY, MARYLAND

HEARING

BEFORE THE

CONGRESSIONAL OVERSIGHT PANEL

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

FEBRUARY 27, 2009

Printed for the use of the Congressional Oversight Panel

U.S. GOVERNMENT PRINTING OFFICE

48–444 WASHINGTON : 2009

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

CONTENTS

COPING WITH THE FORECLOSURE CRISIS: STATE AND LOCAL EFFORTS TO COMBAT FORECLOSURES IN PRINCE GEORGE'S COUNTY, MARYLAND

FRIDAY, FEBRUARY 27, 2009

U.S. CONGRESS,
CONGRESSIONAL OVERSIGHT PANEL,
Largo, MD

The panel met, pursuant to notice, at 9:40 a.m. in Community Room B, Largo Student Center, Prince George's Community College, Elizabeth Warren, chair of the panel, presiding.

Attendance: Professor Elizabeth Warren (presiding), Senator John Sununu, Mr. Damon Silvers, Mr. Richard Neiman.

OPENING STATEMENT OF ELIZABETH WARREN, CHAIR, LEO GOTTLIEB PROFESSOR OF LAW, HARVARD UNIVERSITY

Ms. WARREN. This hearing of the Congressional Oversight Panel will come to order.

I want to start by welcoming everyone. This hearing is entitled "Coping with the Foreclosure Crisis: State and Local Efforts to Combat Foreclosures in Prince George's County, Maryland."

I'd like to start out by thanking Prince George's Community College Provost Charlene Dukes—Provost Dukes, you're here, I saw you earlier. She's standing up in the back of the room. Thank you for graciously hosting this hearing. We very much appreciate the cooperation of the college.

I also want to thank Congresswoman Donna Edwards, Congressman Chris Van Hollen, who's sitting right down here in front, and Lloyd Baskin, of the Prince George's County Department of Housing and Community Development, for their participation here today. They will give remarks to us this morning before we hear from our witnesses.

I also would like to thank Senators Ben Cardin and Barbara Mikulski, Congressman Steny Hoyer, Governor Martin O'Malley, and County Executive Jack Johnson, all for helping make this hearing possible. These hearings are very much a joint effort of many hands.

I'm Elizabeth Warren. I'm the chair of the Congressional Oversight Panel. This oversight panel was created as part of the Emergency Economic Stabilization Act in order to oversee TARP and, principally, to try to stabilize our economy. Our mandate is to assess the effectiveness of foreclosure mitigation efforts. We are in

Prince George's County to gain a better understanding of the foreclosure crisis and to learn from your experiences.

This is our second field hearing on mortgages and foreclosures. We had a field hearing in December, in Clark County, Nevada, another area that has been hard hit by declining home values and an epidemic of foreclosures.

Since our first hearing, there is a new leadership. We have an announcement of the Obama Homeowner Affordability and Stabilization Plan to help homeowners at risk of foreclosure get mortgage loan re-financings and modifications.

Our report for March will focus on the mortgage crisis, on barriers to loan modifications and refinancing, and on the key characteristics of a successful program. We're here in Prince George's County today because it is the foreclosure capital of the State, and because both the State and the county have been creative and active in searching for means to combat the foreclosure crisis.

In preparing to come here, like all good academics, you have to have a little research and understand what the numbers are. It turns out—you may already know these numbers, but it's worth making sure that they're entered in the record—that, although income in this area has remained relatively stable since 2000, inflation-adjusted housing prices from 2000 to 2007 increased by 124 percent in this area. Housing prices more than doubled. This is a bubble that had to burst.

In 2008, Maryland reported 32,338 foreclosure filings. That is a 71-percent increase from 2007, and, more critically, a 945-percent increase since 2006. Prince George's County had the State's top foreclosure rate, and the crisis seems to be getting worse.

Maryland has aggressively confronted this crisis, and this is a large part of what we are here for today: to learn about your experiences through the crisis; and to learn about your experiences in how to try to cope with those crises; and third, to learn about where the needs are that the Federal Government may be able to help with, the extent to which changes in rules, as well as financial support, may be relevant in trying to solve this problem.

So, I'm going to skip the rest of my comments and try to save time to hear from you, because I think that's what we're here for, most importantly. But, I want to say one other thing about a field hearing. We are here to hear from you, but this is not the only way in which we can hear from you. From the first day that we began our work in a public way, we set up a Web site. And it's www.COP—that's Congressional Oversight Panel, COP—.Senate.gov. We hope, through that Web site, not only that you will download the information that we have available, our reports and our videos and our work, but we hope that you will use this Web site in order to let us hear from you. We're here today to do it in person, but we're there all the time on the Web. So, send us your stories, encourage your neighbors to send us their stories. We want to be able to hear from the American people on these issues. We, in turn, take those stories and make them a part of our work, and make sure that others in Washington see them and hear them. So, please let this be the start of a two-way street between us.

Now that I've made this part clear, I also want to make clear that we have other people available here today. We have housing caseworkers from Congresswoman Edwards' and Congressman Van Hollen's offices, as well as representatives of local counseling agencies, to help any homeowners who are in need of assistance, so we can use this in a small way, at least as our contribution to trying to solve this problem.

I'm joined here by—there will soon be three other members of our panel; right now, I have two of them in place—Damon Silvers, Associate General Counsel of the AFL–CIO and Richard Neiman, Superintendent of Banks for the State of New York.

I now will yield to my colleagues for any opening remarks.

Opening Statement of Elizabeth Warren,
Chair, Congressional Oversight Panel

Field Hearing
Prince George's County, Maryland
February 27, 2009

Good morning. I am Elizabeth Warren, the Chair of the Congressional Oversight Panel. This Panel was created last fall as part of the Emergency Economic Stabilization Act, to oversee the Troubled Asset Relief Program, the program created to help stabilize our economy. As part of our mandate, we are required to assess the "effectiveness of foreclosure mitigation efforts and the effectiveness of the program from the standpoint of minimizing long-term costs to the taxpayers and maximizing the benefits for the taxpayers." We are here today in Prince George's County, Maryland to gain a better understanding of the foreclosure crisis and to learn from your experiences here in Maryland.

This is the Panel's second field hearing on the mortgage and foreclosure crises. Last December, the Panel held a field hearing in Clark County, Nevada, an area that, like Prince George's County, has been hit particularly hard by declining home values and an epidemic of foreclosures. Since the Nevada hearing, leadership has changed in Washington and last week President Obama outlined the Homeowner Affordability and Stabilization Plan, which is designed to help homeowners at risk of foreclosure get mortgage loan refinancings and modifications.

The Panel will issue a report in early March that focuses squarely on the mortgage crisis. In particular, we will examine barriers to loan modifications and refinancings, and we hope to highlight the key characteristics of successful programs. In anticipation of that report, we have come to Prince George's County to hear from those closest to the foreclosure crisis—citizens struggling to stave off foreclosure and dedicated government and non-profit workers who have gathered first-hand knowledge of the many facets of this crisis—to learn what type of state and federal foreclosure mitigation initiatives will be most effective.

We chose to hold this hearing in Prince George's County because it is the foreclosure capital of the state and because, as you will hear today, both the state and the county have been notably creative and active in searching for means to combat the foreclosure crisis. Despite the fact that inflation-adjusted state income levels have remained relatively stable, housing prices soared 123.9 percent from 2000 to October 2007. Of course, like all bubbles, this bubble had to burst, and it did. In 2008, Maryland reported 32,338 foreclosure filings, an increase of 71 percent from 2007 and 945 percent increase from 2006. With over 3 percent of its housing units reporting at least one foreclosure filing during 2008, Prince George's County posted the state's top foreclosure rate. And the crisis is only accelerating. The total number of foreclosure events rose 30 percent from the third quarter of 2008 and 45.6 percent from the fourth quarter of 2007, much higher than for Maryland as a whole.

But we are also here because the State of Maryland has aggressively confronted this crisis with ambitious state legislation and dedicated outreach efforts. In addition to passing laws creating a duty of care for mortgage servicers, amending legislation to prevent foreclosure rescue scams, and lengthening the foreclosure process, the State of Maryland has conducted more than 300 foreclosure-related outreach events, launched three programs providing state assistance to incentivize modifications and provide zero-interest loans to those facing foreclosure, and launched an advertising campaign aimed at reaching homeowners before foreclosure becomes inevitable. Also stepping into the breach have been local non-profits, especially providers of housing counseling and legal services. They have vigorously fought mortgage fraud and helped to get homeowners the loan modifications and refinancings that they need to stay in their homes.

Despite the dogged efforts of states and localities and the ability of local players to respond to local needs, it is clear that they cannot combat this crisis without more federal assistance. The federal government's response to the mounting foreclosure crisis thus far has been insufficient and has left states with inadequate tools. States lack both the legal authority to regulate mortgage lending adequately and the economic resources to fund broad, incentive-based modification and refinancing programs. Many homeowners facing foreclosure need and deserve our help. As we will see in the stories we hear today, more than half the people who ended up with exotic and adjustable rate mortgages could have qualified for ordinary, 30-year fixed mortgages, but were sold high-cost mortgages that they could pay for only afford for a short time.

As we wait to see the details of the federal plans, we are here to learn from you and to take what we learn back to our federal lawmakers. While federal government initiatives have focused on shoring up the banks and financial institutions—we are here to hear what is happening in our communities, especially from those who are suffering from foreclosures and lost jobs.

We all need to hear your stories so that they we can evaluate new ideas and legislation with the best information available – information about the effects of the crisis on Americans like you. We appreciate your coming here in person, and, we encourage others share your stories at cop.senate.gov.

Mr. Silvers.

STATEMENT OF DAMON SILVERS, MEMBER OF THE CONGRESSIONAL OVERSIGHT PANEL

Mr. SILVERS. Thank you, Madam Chair.

Good morning, and thank you, to Elizabeth and to the panel staff, for putting this very important hearing together.

And I also want to express my deep gratitude to the good people of Prince George's Community College for accommodating us, and particularly on such short notice.

Finally, I would like to acknowledge the presence of my congressman, Chris Van Hollen—and hopefully we will be joined shortly by Congresswoman Donna Edwards—both for their leadership on this and so many other issues, and for taking the time to be with us today. We are very grateful.

This hearing is about the foreclosure crisis. We are rightfully here, just a few miles from Capitol Hill and K Street, to learn about the details of what is happening in our country's neighborhoods, and to make some simple points.

The foreclosure epidemic is not a regional phenomenon, it's not confined to some corner—some far-distant corner of our country, and it is not under control. And here in Prince George's County, home to the people who make our nation's capital work, the foreclosure epidemic is running wild, accounting for over a third of all foreclosure events in the State of Maryland in the last quarter of 2008. The Congressional Oversight Panel is here today because our job is to ensure that the Emergency Economic Stabilization Act of 2008 achieves its purpose of getting the foreclosure epidemic under control. Our next monthly report will focus on foreclosure mitigation.

To do our job, we need to understand what has happened here in Prince George's County, where, in the last quarter of 2008, there were over 3500 foreclosure events, a 30-percent increase over the third quarter of 2008, and a 45-percent increase over the same period in 2007.

Mass foreclosures were supposed to be the nightmare of our grandparents' youth, a memory out of faded newsreels. The fact that a lender can throw a family out of their home is a necessary part of a system of housing finance, but it is also an act of emotional violence and economic destruction.

Foreclosed homes typically yield less than 40 cents on the dollar to lenders, while destabilizing neighborhoods and driving down real estate values. Foreclosures should be the last option, after all else has failed.

But, it is impossible to look at the numbers nationwide—millions of foreclosures, but only thousands of loan modifications—and not conclude that foreclosure is not just the first option lenders and services offer to homeowners in trouble, it is effectively the only option.

The foreclosure epidemic should teach policymakers something that policy elites are always in danger of forgetting: we are one country and, increasingly, one world, our fate bound together. The family put on the street here in PG County is not simply a regrettable personal tragedy for that family, it is the beginning of a chain of events that leads to falling property values, collapsed megabanks, trillion-dollar government bailouts, frozen credit markets, 401(k) meltdowns, political crises in foreign countries, closed factories and lost jobs, from here to China and back.

Many people find the financial-markets crisis a complete mystery, but really it's very simple. Mortgages on terms families can't afford aren't worth the face value of those mortgages. Banks that hold those mortgages don't have enough real assets to fund their liabilities, and foreclosing on homes makes the problem for both homeowner and bank worse.

So, in a very real sense, the crisis in our financial system begins here in the American home and in the suffering of American families. And so, this hearing is not just about our foreclosure mandate, but our mandate to understand whether the $700 billion Congress appropriated to address the financial crisis is being used effectively.

Foreclosures and sick banks are two sides of the same coin. We have been on a path of denial, the path that assumes that buying time will, itself, be a solution. We pretend houses are worth more than they ever will be, that families with stagnant incomes will somehow pay exploitative mortgages, that banks that are underwater are actually healthy. This has been the strategy for too long, and we cannot afford to play "Let's Pretend" any longer.

Home foreclosures and zombie banks are dragging down our housing markets and our economy. Buying time is making the problem worse, not better. We need to revive both our communities and our banks, and that means that both banks and mortgages must be restructured.

This hearing, finally, is so timely because we are at a moment when action is finally on the table. The President has proposed spending real money to help homeowners in trouble, building on the leadership shown in this area by the FDIC. Here in Maryland, there are models for action in the efforts of the State government, under the leadership of Governor Martin O'Malley, to encourage solutions other than foreclosure when homeowners get in trouble.

Maryland's efforts, like those of other States, like New York, ably represented here at the table, have outpaced Federal efforts, up until now. As President Obama details his mortgage relief plan, I believe Maryland's experience can help guide our efforts at the Federal level, so I am very pleased the leaders of the Maryland State initiatives are here with us today.

I hope, today, we will hear more about these solutions and that testimony will help us answer key questions about addressing the foreclosure crisis. What are the obstacles to mortgage restructurings? Do we need to encourage principal write-downs, or will interest-rate reductions be enough for most homeowners in trouble? What carrots and sticks work to encourage loan restructurings? In particular, what should we ask of recipients of TARP money in this area? Looking at Federal, State, and private-sector efforts to address foreclosures over the last 2 years, what, if anything, has worked? And finally, and quite importantly, how can government communicate effectively with borrowers, who are in trouble and who may not trust what they get in the mail, to help those people get help?

I look forward to hearing what our distinguished panels of witnesses have to say on all these issues, and thank you.

[The prepared statement of Mr. Silvers follows:]

Opening Remarks of Damon Silvers

Congressional Oversight Panel

Field Hearing, Prince Georges County, MD

February 27, 2009

Good morning, and thank you to our Chair and the Panel staff for putting this very important hearing together. I also would like to particularly acknowledge my Congressman, Chris Van Hollen, for his leadership on this and so many other issues, and for taking the time to be with us today.

This hearing is about the foreclosure crisis. We are rightfully here, just a few miles from Capitol Hill and K Street, to learn about the details of what is happening in our country's neighborhoods, and to make some simple points. The foreclosure epidemic is not a regional phenomenon. It is not under control. And here in Prince Georges County, home to the people who make our nation's capital work, the foreclosure epidemic is running wild, accounting for over a third of all foreclosure events in the entire state of Maryland. The Congressional Oversight Panel is here today because our job is to ensure that the Emergency Economic Stabilization Act of 2008 achieves its purpose of getting the foreclosure epidemic under control. Our next monthly report will focus on foreclosure mitigation. To do our job, we need to understand what has happened here in Prince Georges County, where in the last quarter of 2008 there were over 3,500 foreclosure events, a 30% increase over the 3rd quarter of 2008 and a 45% increase over the same period in 2007.

Mass foreclosures were supposed to be the nightmare of our grandparents' youth, a memory out of black and white newsreels. The fact that a lender can throw a family out of their home is a necessary part of a system of lending—but it is also an act of emotional violence and economic destruction. Foreclosed homes typically yield less than 40 cents on the dollar to lenders, while destabilizing neighborhoods and driving down real estate values. Foreclosure should be the last option after all else has failed. But it is impossible to look at the numbers nationwide – millions of foreclosures, thousands of loan modifications, and not conclude that foreclosure is not just the first option lenders and servicers offer to homeowners in trouble-- it is effectively the only option.

The foreclosure epidemic should teach policymakers something policy elites are always in danger of forgetting. We are one country, and increasingly one world, our fate bound together. The family put on the street here in PG County is not simply a regrettable personal tragedy for that family – it is the beginning of a chain of events that leads to falling property values, collapsed mega banks, trillion dollar government bailouts, frozen credit markets, 401-k meltdowns, political crises in foreign countries, closed factories, lost jobs from here to China and back.

Many people find the financial markets crisis a complete mystery—but really it's very simple—mortgages on terms families can't afford aren't worth face value, banks that hold those mortgages don't have enough real assets to fund their liabilities, and foreclosing on homes makes the problem for both homeowner and bank worse. So in a very real sense, the crisis in our financial system begins here – in the American home and in the suffering of American families, and this hearing is not just about our foreclosure mandate, but our mandate to understand whether the $700 billion Congress appropriated to address the financial crisis is being used effectively.

Foreclosures and sick banks are two sides of the same coin. We have been on a path of denial – the path that assumes that buying time will itself be a solution. We pretend houses are worth more than they ever will be, that families with stagnant incomes will somehow pay exploitative mortgages, that banks that are underwater are actually healthy. This has been the strategy for too long, and we cannot afford to play let's pretend any longer. Home foreclosures and zombie banks are dragging down our housing markets and our economy. Buying time is making the problem worse, not better. We need to revive both our communities and our banks. That means both banks and mortgages must be restructured.

This hearing finally is so timely because we are at a moment when action is finally on the table. The President has proposed spending real money to help homeowners in trouble, building on the leadership shown in this area by the FDIC. Here in Maryland there are models for action in the efforts of the state government under the leadership of Governor Martin O'Malley to encourage solutions other than foreclosure when homeowners get in trouble. Maryland efforts, like those of other states like New York, have outpaced federal efforts up until now. As President Obama details his mortgage relief plan, I believe Maryland's experience can help guide our efforts at the federal level. So I am very pleased the leaders of the Maryland state initiatives are with us today.

I hope today we will hear more about these solutions, and that testimony will help us answer key questions about addressing the foreclosure crisis—

1) What are the obstacles to mortgage restructurings?
2) Do we need to encourage principle writedowns, or will interest rate reductions be enough for most homeowners in trouble?
3) What carrots and sticks work to encourage loan restructurings?
4) Looking at federal, state, and private sector efforts to address foreclosures over the last two years, what if anything has worked?
5) How can government communicate effectively with borrowers who are in trouble to help them get help?

I look forward to hearing what our distinguished panels of witnesses have to say on all these issues. Thank you.

Ms. WARREN: Thank you, Mr. Silvers. Mr. Neiman.

STATEMENT OF RICHARD NEIMAN, MEMBER OF THE CONGRESSIONAL OVERSIGHT PANEL

Mr. NEIMAN. Thank you.

As our Chair pointed out, in my day job I am Superintendent of Banks in New York, but I really think that my presence on this committee has probably more to do with the role that I've played in foreclosure prevention and mitigation in the State of New York. I serve as the Governor's chair of an interagency task force that we call HALT, Halt Abusive Lending Transactions, and it is really addressing the whole compendium, the continuum, of the foreclosure crisis, from initiation to foreclosure, to the impact that foreclosed properties have on destabilizing neighborhoods.

We have addressed this from—as your State has, and as many States—from bringing borrowers directly together with lenders, to modify mortgages and to prevent filings of foreclosures, to providing multi-million-dollar grants to the not-for-profits, who are so necessary in providing the counseling, to imposing legislation to assure that a crisis like this never happens again, and that banks impose and utilize sound underwriting standards to assure that borrowers have the ability and the wherewithal to pay and put that burden and duty of care on the lender, and also to bring serious and effective enforcement for mortgage fraud, and to assure that mortgage originators, mortgage brokers, are licensed—properly licensed in this country.

But, the only way for us to effectively do this is to actually interact with the people who are impacted by this, and that's why, for the last 2 years, since I've been in this role, I have made it a serious attempt to walk the streets of the communities that are being impacted by foreclosures.

Fortunately, New York has not been impacted to the same extent as communities like Maryland. However, New York is being disproportionately impacted in some areas—there are areas in Brooklyn and Queens that comprise almost 30 percent of all the foreclosure filings. And when you walk those streets of Jamaica, Queens, or Bensonhurst, Brooklyn, or even Buffalo and Rochester, and you see the destabilizing impact that foreclosed properties, not only have on the families who were displaced, but on the neighbor—every neighbor of those homes; you see the impact that this is having on our cities, on our counties, on our States, our Federal Government, and our economy.

So, that's why I am so excited that we have this opportunity to be out here, to hear from the borrowers, to hear from the not-for-profits, and to hear from the government officials who are working, day in, day out, to address this problem. When we hear from you as to what are those impediments—and as Damon and Elizabeth mentioned, our next report will focus on the impediments and the obstacles to bringing about successful mitigation efforts. But, only by understanding the impediments, whether they be at the servicer level, the bank level, or at the financial level, can we really recommend to Congress, to the Federal Government, appropriate modification efforts.

So, I am very anxious to hear from you all today, and thank you for coming.

Ms. WARREN. Thank you, Mr. Neiman.

The Chair now recognizes Congressman Chris Van Hollen for some opening remarks.

STATEMENT OF HON. CHRIS VAN HOLLEN, U.S. REPRESENTATIVE FROM MARYLAND

Representative VAN HOLLEN. Thank you. Thank you, Professor Warren. Thank you for chairing the Congressional Oversight Panel. And thank your other members for joining you—Mr. Silvers, Mr. Neiman. Thank you for the work that you're doing. We all look forward to your report, not just Members of Congress, but the people of Prince George's County and people of our country, as we look for a way forward and a way out of what is clearly a crisis.

I'm very pleased to be here today with Lloyd Baskin, and I know we're going to be joined shortly by my colleague in Congress, Donna Edwards, and we have been working to try and address this problem as expeditiously as possible.

I also want to thank Prince George's County Community College and Charlene Dukes for hosting us today, and to say to our State and local officials here in Maryland, as you have said, that they have been taking aggressive steps to try and stem the tide of foreclosure. But there are, of course, limits to what you can do at the local and State level, and that's why it's essential that we take very firm and strong action at the Federal level, which, in late fall of last year, I think, was very piecemeal; I think, now it is accelerating; and we're going to be really rolling up our sleeves and getting to it with the new administration and the election of President Obama.

I'm not going to recite the statistics for Prince George's County; I think you all did a very good job of laying out the problem. It's bad, and it's getting worse. It's already been at a pretty rapid decline, and that curve is getting steeper. There is a perception, I believe, that there's sort of a bubble around the nation's capital area that has not been bursting, as Mr. Silvers said, and others have said. That just isn't so. And Prince George's County is a vivid example that, right in the backyard of our nation's capital, the foreclosure crisis is here, and growing.

You're going to hear the testimony from some witnesses later, and, I think, as you've said, it's important to get that—the stories, right from the ground.

I would like to underscore the point that Mr. Silvers made with respect to the sense that we have gotten in our office with respect to trying to deal with some of the lenders or the servicers. It has been very frustrating. We have had some success stories, and we're always pleased when we're able to have a success story. But, we've also had many cases where we have not been able to make progress, which is why it's essential that we move forward more aggressively on that front.

I just want to relate a story from one constituent who could not be here today. This is a letter we received from the constituent, "On Christmas Eve, we received a letter from a lawyer representing HomeEq Servicing Company, informing us that they had started the foreclosure process. We have been given 45 days to either pay everything we owe them or challenge their claim of us being delinquent since September 1st. In reality, we paid them the September and October payment, but they credited them to a missed payment in May, and my husband tried to make a partial payment in November, which they refused. He also tried to pay them in December, which they refused.

"I am very frustrated, because I feel that we have done everything that was suggested in the," quote, "'Prevent Foreclosure' package that was sent to me by your office. Unfortunately, our loan servicing company doesn't seem too interested in trying to help us stay in our home. I feel like we have been very honest with our lender, and have acted in good faith, but I feel we have been treated unfairly. I feel like they have knowingly and willingly put us further behind in our payments, and now added additional legal fees which has made it nearly impossible to pay what we owe.

"I hope someday legislation will be passed to protect people like us. To send us the notice on Christmas Eve was like adding salt to the wound. The very least, I would appreciate your letting Representative Van Hollen know what we have dealt with, because I feel it has been unfair, to say the least.

"We had no control over the housing crash, and couldn't sell our home. We have resigned ourselves to the fact that we will now have to go forward with a bankruptcy plan and hope, someday, to be able to regroup and rebuild."

Since that constituent sent us the letter, they filed for bankruptcy. HomeEq then filed papers to lift the stay of bankruptcy protection so that they could go ahead with their foreclosure. Our constituent since had a heart attack and a stroke, and is now in intensive care at Washington Hospital.

These are the kind of stories you're hearing in Prince George's County in Maryland and around the country.

Last week, President Obama announced his housing plan to help 7 to 9 million American families restructure or refinance their mortgages to avoid foreclosure. We all need to get behind that plan.

Yesterday, the House of Representatives began debate on legislation entitled "Helping Families Save Their Homes Act." It has a number of provisions in it. I'm not going to go through all those provisions. I do want to mention one, with respect to the option to go into bankruptcy and have a bankruptcy court readjust your mortgage. I think we all know that people with second homes, people with yachts, real estate speculators and others can currently go into bankruptcy court and have a judge consider all the factors, all the individual factors that a blanket rule cannot, and make a judgment tailored to the individual circumstances of that person, going forward. And one of the provisions in the bill the House is taking up will allow people who are currently undergoing foreclosure to seek some relief in bankruptcy. I think it's an important hammer, and it's even effective in the cases where they don't eventually have to go into bankruptcy, because it provides a much greater incentive to lenders to negotiate and renegotiate these arrangements.

Hopefully, the more aggressive approach that's being taken now will make a real difference in people's lives. As I said, we get lots of constituent cases; we try and deal with them, one on one. Sometimes we're successful; sometimes, very unfortunately, we're not, which is why we need to supplement the efforts at the local and State level by dramatic Federal action.

I really thank you, again, for the work that you're doing, and we look forward to your report as a way forward in getting us out of this crisis so we don't have to hear the kind of stories I just related to you.

Thank you very much for being here.

Ms. WARREN. Congressman Van Hollen, Chris, thank you very much for coming here today. And thank you for participating in this hearing, but thank you for the work that you're doing in Washington, and particularly on the very important bill yesterday.

Representative VAN HOLLEN. Thank you very much.

Ms. WARREN. Thank you.

Representative VAN HOLLEN. We hope to get it done——

Ms. WARREN. Godspeed.

Representative VAN HOLLEN [continuing]. In the next week.

Ms. WARREN. I now want to recognize Mr. Lloyd Baskin, who is the manager of the Homeownership Center in the Prince George's County Department of Housing and Community Development.

Welcome, Mr. Baskin, and would you make your opening statement, please.

STATEMENT OF LLOYD BASKIN, MANAGER, HOMEOWNERSHIP CENTER, PRINCE GEORGE'S COUNTY DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Mr. BASKIN. Well, thank you, Madam Chair. Good morning, Madam Chair Elizabeth Warren, members of the panel—Mr. Damon Silvers, Mr. Richard Neiman, and Chris Van Hollen. I am Lloyd Baskin, and I manage the Homeownership Center for Prince George's County. Thank you for inviting me to talk about foreclosure and its effects on homeowners who have tried to refinance or obtain loan modifications. It's really a struggle for folks to have to go through.

It's fitting that this august panel has decided to take up the most important issue facing America, which is foreclosure and the questions surrounding reviewing the current state of financial markets and the regulatory system.

Our jurisdiction appreciates the fact that your panel, which has oversight of foreclosure mitigation, has come to listen and assess the impacts the current bank credit crisis has demonstrated on several homeowners facing foreclosure proceedings. The broad outline of my remarks today will do two things; first is to provide a cursory snapshot of the state of foreclosures in the county, the second will be to offer recommendations for your panel to consider in addressing the impediments that thousands of homeowners are facing in their efforts to refinance or execute a loan modification.

I'll start with—the subprime mortgage market experienced tremendous growth between 2001 and 2006. The county believes that this was facilitated by the development of private-label mortgage-based securities. Investors in search of higher yields kept increasing the demands for these private-label mortgage-backed securities, which also led to sharp increases in the subprime share of the mortgage market—it went up from 8 percent in 2001 to 20 percent in 2006—and in the securitized share of the subprime mortgage market, which increased from 54 percent in 2001 to 75 percent in 2006. In Prince George's County, our experience shows that as the subprime market grew dramatically, mortgage loan underwriting standards were deteriorating just as dramatically. Rapid appreciation of housing prices hid the true riskiness of these subprime loans; and when housing prices stopped climbing, the risk in the market was apparent.

We now know that the subprime market experienced a classic lending boom-bust scenario, with rapid market growth, loosening underwriting standards, and deteriorating loan performance, which decreased risk premiums.

In addition to rising default and foreclosure rates throughout Maryland, the Homeownership Preservation Task Force was established to develop an action plan to address escalating foreclosure rates and identify effective ways to preserve homeownership. The task force examined the capacity of the housing counseling agencies to address foreclosure prevention. The Homeownership Coalitions in Prince George's County and in Baltimore recommended that homeowners be provided with financial literacy information about the importance of their credit and understanding the loan terms in order to make good choices in the mortgage products. In Prince George's County, this took the form of group financial literacy education and one-on-one counseling for those who have missed one or more mortgage payments.

"Under a Shadow," which is a weekly series of foreclosure prevention workshops that are put on by the Prince George's County Coalition, are held every Thursday at various locations throughout the State. This 2-hour workshop basically gives people information on the foreclosure process, as well as their mortgage rights and responsibilities. Participants are taught to order a credit report, develop a budget, and complete a hardship letter to describe what caused the delinquency and what they are prepared to do to resolve it.

The goal is to provide families information on repayment, loan modification, and refinancing programs to prevent the loss of their homes. Approximately 6500 people have attended these weekly workshops since September of 2007.

And we get a lot of our foreclosure information from Realty Track and also from the State of Maryland. And they've been studying and tracking foreclosure statistics throughout the nation. And Realty Track reported that 10,030 property foreclosure filing events were filed during the fourth quarter in Maryland.

Now, let me describe what a foreclosure event is. A foreclosure event is a notice of sale, a notice of default, or an actual purchase of a foreclosed home. Now, in Prince George's County, we're accounting for about 36 percent of those in the State of Maryland, or 3,621 notices of default; notices of sale, about 570 in the fourth quarter; and purchases were 592. So, a lot of folks are in trouble.

Now, the State of Maryland has also gone out and identified hotspot communities, where foreclosure has impacted those communities greater than the State average. And in our area, three areas that are very hard hit are Fort Washington, Upper Marlboro, and Capitol Heights.

And you may ask, What is the county doing? Well, the county is focusing our efforts on sustaining homeownership through financial literacy education, community outreach, and one-on-one counseling. We work closely with the State of Maryland and Mr. Skinner's office. We also work with the Coalition for Homeownership Preservation in Prince George's County.

We believe pre- and post-purchase education, along with effective outreach to the community are the best tools to assist families to become successful homeowners; at the same time, preparing them to analyze and act on repayment problems, should they occur.

Financial assistance is available through the Bridge to Hope Program, which is called—help for Prince George's families in danger of losing their homes. This program provides temporary relief to county homeowners facing foreclosure difficulty caused by an adjustable rate or a subprime mortgage. Eligible homeowners are able to borrow up to 15,000, payable as a zero-interest preferred—I mean, zero-percent deferred loan, to be repaid when the house is sold, refinanced, or the title is transferred. The borrowers can use these funds to bring their mortgage current in order to qualify for a fixed-rate CDA loan or an FHA loan, loan product. You must contact a nonprofit housing counseling agency in order to get this assistance. If you need more information on it, you can call 1–877–462–7555—that's the State's line—or you can go to the Web, www.mdhope.org.

Okay, what actions does the county think will help the situation? Really, we'd like the whole process to be streamlined. The problem right now is, many folks are asked to call their lender, but when they call their lender, they are met with someone in the collections department who takes them through a whole series of questions and answers to try and gain information. The banks, on the other hand, say they have to take a long time to hire someone and train them so that they can handle that information. So, what you have is people rushing to the nonprofit counseling agencies; there's long lines there for assistance. And then, when they get their information together, they have to contact the bank, and then there's more lines for assistance.

Many of the people in the banking community are telling these borrowers, "We can't do anything for you until you are at least 90 days behind." Well, by the time most folks are 90 days behind, their time to do anything is really reduced, so they don't have a—they don't have much of a choice. So, we'd—asking for this process to be streamlined.

Now, we would suggest that the homeowner counseling agencies themselves be given these funds, something like what HUD does with their SuperNOFA program; just let the counseling agencies apply directly to HUD or the FDIC or another entity, and then the counseling agencies can provide these funds to homeowners in an emergency basis. We think that would help—we think that would help tremendously.

Also, we'd like more options for the homeowners. We have the Bridge to Hope, we have FHA Secure, we have Help for Homeowners, we have many different programs, but all of them have various rules. If we could streamline that whole process, make one standard process for the counseling agencies to go through, for the borrowers to go through, we think it would help people tremendously.

Finally, we'd like the banks to follow the IndyMac Federal Bank loan modification model proposed by Sheila Bair, from the FDIC. The FDIC systematically reviews its mortgage portfolios to modify troubled residential loans for delinquent or at-risk borrowers. That's a much more proactive approach than your statistical modeling. FDIC uses statistical modeling software to review their loan portfolio. Then they send a letter, where it makes sense, to those borrowers that are at risk or in trouble. With that kind of process, that can be done with little or no cost, that could be done without training a lot of people on the bank side, that could be done without all these long lines and this long wait for assistance that most counseling agencies and homeowners are going through.

Finally, the FDIC expects that future defaults will be reduced, the value of the mortgages will improve, and servicing costs will be cut. This streamlined process has the greatest potential to assist the most people in the shortest amount of time. At the same time, any troubled borrowers will remain in their homes.

I look forward to your panel's report after today's testimony. Thank you, again, for the invitation to appear today. I hope my testimony has been useful, and I'll be happy to address any questions.

Ms. WARREN. Thank you, Mr. Baskin. Appreciate it.

And I want to welcome Representative Donna Edwards here.

Congresswoman Edwards, I've followed your career for some time, and particularly in your ability to link up the issues in bankruptcy law and what's happened in the housing crisis very early on. And so, I want to welcome you here today and invite you to make some opening remarks.

STATEMENT OF HON. DONNA F. EDWARDS, U.S. REPRESENTATIVE FROM MARYLAND

Representative EDWARDS. Thank you, Madam Chairwoman. And, of course, I have followed you, too.

Let me just say this. First of all, welcome to Prince George's County and to the 4th Congressional District in Maryland. I appreciate that you are here, because here in Prince George's County we really are at the center of the storm in our State.

I live in Fort Washington, Maryland. And as you have already heard from earlier testimony, it is one of the jurisdictions in Prince George's County that is more severely hit than almost anyplace else in the State.

Three years ago, I drove both through my neighborhood and my community, and I actually began to see, at that point, what was happening. It was slow, at first. And now it is a cascade.

In my own neighborhood in Fort Washington, just driving through my small neighborhood, I would estimate that about 10 percent of the homes in that small neighborhood are in some state of foreclosure. The impact is really devastating on communities like mine and across the State.

Our office in the 4th District has held two foreclosure mitigation forums in the last few months. We brought together legal services providers, home counselors, our Federal, State, and county agencies, and our utilities. Utilities are another small piece of the pie, in terms of what homeowners need to try to mitigate. This is not enough. The programs that are in existence actually are geared toward people who are already in a state of trouble, and not looking ahead.

While, even in this county, the crisis may have begun with subprime loans (some of them that were made to people who could have had prime loans and long-term fixed-rate loans), now the crisis is hitting in a different way. That is because there are folks who are stretched because their hours have been cut back or they have lost a job. So, we have a cascading problem here in this congressional district and around the country.

For some time I had called for the Troubled Asset Relief Program funds to be used to mitigate foreclosures. We did not do that with the first tranche of money, quite frankly. And now I think that we are in a different place.

I am looking forward to hearing more about President Obama's plan and the Treasury's plan to use about $75 billion of the other $350 billion to try to mitigate foreclosures.

We will, in the House of Representatives, very shortly, be considering a provision that would allow for some homeowners to have their homes considered in the context of bankruptcy. I believe that this strategy should have happened a long time ago, because, for some homeowners, and for bankers and lenders, that prospect of bankruptcy actually might initiate modifications that might not happen otherwise, and then, for those who are in their hardest-hit moment and for whom bankruptcy is a last resort, they will do that, but at least they can have their single largest asset considered in the context of that bankruptcy.

We need to tackle this problem with multiple prongs. There is no one single fix to the problem. As I look throughout our county and at the forums that we held, we had hundreds of people coming out to get help. We could not help all of them. Even in the best of all possible worlds, we will not be able to help all of them, but we will be able to mitigate the cascading rate of foreclosures that are happening through our community and across the country.

I appreciate your being here in Prince George's County and in the 4th Congressional District. We are looking, also, that accountability is in the program. What are we doing to really help homeowners and to make a difference in opening up credit markets so that people will be able to refinance, and so that their small businesses are not placed in jeopardy when their homes are in foreclosure?

I have been working closely with my colleague Chris Van Hollen from the 8th Congressional District, and the entire Maryland delegation, to figure out how we can try to stave this program off for Maryland and for communities around the country.

I appreciate, again, your being here, look forward to any questions that you have, particularly about the forums we have been hosting, because they have been instructive, in terms of the kind of help that we need to offer to our homeowners. Again, thank you very much for being here in Prince George's County.

Ms. WARREN. Thank you.

Thank you, Congresswoman. Thank you, Congressman. Thank you, Mr. Baskin, for being with us.

I also want to note that Senator Sununu has now joined us.

We will, today, have two panels. We're going to have a panel, first, of homeowners from Prince George's County who have faced, or are facing, the threat of foreclosure. And then, second, we will have a panel of those who are working on the foreclosure mitigation efforts, both to hear about the creative and successful efforts that are occurring, but also to hear where the impediments are, where the problems are, and where we need greater assistance and can make some changes.

So, with that, I say thank you very much, and I ask for the first panel to come up. Thank you.

[Pause.]

Ms. WARREN. I want to thank you all.

So that we can be respectful of everyone's time and have an opportunity to hear from as many people as possible, we're going to ask that you hold your comments to 5 minutes; but, anything that you wish to put in the record—we will hold the record open, and you're certainly welcome to add other remarks, if you would like to.

We also, just to help us stay on time—we actually have someone who will just give us some little signals on time. I'm sure I'm the only person in the room who sometimes gets so carried away with the content of what we're talking about, but I do want to make sure we keep things moving on time.

We have three people with us here today to talk about their experiences. Tracy Robison, is from Hyattsville.

Ms. ROBISON. Yes, ma'am.

Ms. WARREN. Is that right?

Mr. Mitchell—John Mitchell, is from Forestville.

Mr. MITCHELL. That's right.

Ms. WARREN. And we have Teresa Smith, from Palmer Park. Is that right?

So, if you would, I'd just like to hear from each of you, for up to 5 minutes, if you could.

Ms. Robison.

STATEMENT OF TRACY ROBISON, RESIDENT OF PRINCE GEORGE'S COUNTY AND DISTRESSED HOMEOWNER

Ms. ROBISON. Good morning. My husband and I had been in foreclosure for 2 years, and we recently have gotten our modification from our lender, Chase Bank. And that would not have happened without Ann Humphries, from Congressman Chris Van Hollen's office.

The thing that I really want to point out, that I think people need to know, is that there needs to be more action taken, not only against predatory lending, but against companies that pretend to be able to help you with your modification.

During the last 2 years, my husband—my husband and I have been in the home—he had the home for about 16 years. We got married. I brought in my family. Our family expanded, but our house didn't, so we had to renovate; we had to add on. So, we refinanced. And we were okay. But my husband got ill, and he wasn't working, so that cut our income. That started our financial woes.

During the course of the last 2 years, we found ourselves in foreclosure because we had to refinance again. We weren't really explained by our lender what happens when you take out a second mortgage, a home equity line of credit. That got us in trouble. And, of course, having less finances, we weren't able to pay our bills. We tried filing a Chapter 13 bankruptcy, but then the trustee payment was so high, we couldn't keep up with that, either.

We tried every avenue. Once we realized that we were going to lose our home, we tried methods, like going to this place, The Money Store. And although we weren't victims of them, because we got out when we realized that this was not right, we were saved. But, that was a couple of months tied up with them. We fell further behind in our mortgage payments.

We went to another place to try to get a modification—and that was recently—Home Alliance USA—where they said, "We can get you a modification," and we believed them. We paid them $500 of the $2,000 they were asking us to pay.

At the same time, Congressman Van Hollen's office got involved. I called them. And basically, at the same time I reached out to this company that wasn't very ethical is when I heard from my congressman. They put me in contact with Chase Bank at the executive resolution branch. I never knew about the executive resolution branch. There's a branch at our lender that will respond to the congressman, but I could never get through to them. I had to go through loss mitigation for 2 years, trying to work out a deal that was affordable to my family. They wanted a huge downpayment. They wanted me to enter into a forbearance agreement, and I couldn't. I did not have $7,500 or $8,000 to pay them on a forbearance agreement, but I could pay my mortgage.

So, essentially, what ended up happening was, they gave us our modification with a downpayment that we could afford, and they also lowered my monthly payment.

I am not understanding why we had to go through this rigmarole of talking to people in loss mitigation who weren't really able to help us, when the bottom line was, eventually they came through for us. But, the hoops we had to jump through in getting help was ridiculous. When you call your lender, you talk to one person; and then when you call them back, you have to speak to another person. It reminds me of that game, where you have a nut under a shell, and they move them and you never know who you're going to talk to, you never know what's going to be under that shell, if you're going to get somebody or you're not going to get somebody. And I played that game with my lender for months and months and months. And it's not fair.

And even worse than them, like I said, was these companies that pretend they're going to help you with your modification. They need to be shut down.

Thank you.

Ms. WARREN. Thank you. We appreciate it, Ms. Robison.

Mr. Mitchell.

STATEMENT OF JOHN MITCHELL, RESIDENT OF PRINCE GEORGE'S COUNTY AND DISTRESSED HOMEOWNER

Mr. MITCHELL. Yes. Good morning, Ms. Chair and Senator and other colleagues.

My name is John Mitchell, and I have a similar, but more successful, situation than my neighbor, here.

Mine started back in 2005. I got married in—my wife's going to kill me—1996. And actually, the home we had wasn't big enough for the family, so I fell behind in my taxes and things, and I said, "Well, what I'll do is have the house refinanced to pay the taxes and redo the home."

Well, that part was fine, and I talked to mortgage brokers everywhere. And they were saying that we couldn't get a refinancing because of my wife's credit. This was in 2005.

So, I kept going and kept going, and one day a mortgage company called Oak Crest called me. And the mortgage lender then was—I think his name was Talley. And we went back and forth, back and forth, and he assured me that he could save me from bankruptcy or foreclosure, and he could get me a loan.

Well, naturally, as most Americans do, you've got somebody that can help you, you go along with it. And at that time, I was paying, like, $1100 a month, which I could handle. When he got through—I don't know where the money went or where the money came from or how he did it—my mortgage loan had gone up to 2104.

And I told him, point blank, "There's no way I can afford this. Come on, I can't afford—from 1100, you then doubled my mortgage payment. How in the world am I going to do this? And where's the money?"

He says, "Well, what we're going to do is pay your back taxes off and this, to save your home, and this"—and I didn't get any money.

So, then it went on and on and on, and I was struggling to make the 2104, which was almost impossible.

So, in 2007 I met another mortgage person, and he said that he could lower my mortgage payments and he could stop the foreclosure on the house. And I said, "Well, what do I have to do?" He said, "Well, how much can you afford to pay?" I said, "Well, you're the mortgage man. I would like to pay my $1100 I was paying before." He says, "Well, no, we can't do that." He said, "But, if you can give me 1345 a month, I can save your house."

So, I was paying him 1345 a month for 2006, 2007, I got sick in 2007. And I was making these payments monthly. Come to find out there was a foreclosure on my home that I didn't know anything about. And he was handling all the paperwork, because he told me that if anyone asked, refer them to him, which I did. If any mortgage people called, refer them to him, and he would take care of all of the things, as long as I paid my mortgage. So, I did.

And I thought I was going along good. I got sick, and I had to have a heart operation, and I was in the hospital for 6 weeks one time, and I was in the hospital another time. My wife had a heart attack. I mean, we had all kind of medical bills come in. But, some kind of way, I kept paying him the 1345.

One day in 2008—I'll never forget that, as long as I live—my wife called me, and she said, "Mitch, the sheriff's department is here." "The sheriff's department there for what?" "He said they come to set us out." I said, "No way. Put the guy on the phone."

So, the sergeant got on the phone, and he said, "Mr. Mitchell, why are you still there?" I said, "Because I live there." He says, "Well, I have the eviction notice to set you out today."

But, there was a postponement, because he got there 2 hours after the men that come to put your stuff on the street, so he said there would be a postponement and he would let me know when the postponement would be, but I would have to leave the house, because they were going to put my furniture on the street.

So, I talked to my pastor and my overseer, and they contacted Ms. Alisa Hall from NCRC. And she went to work for us on saving the house. And she talked to all the lawyers at Griesen, Berman & Ward. Those were the people that had the mortgage on the house, because the fellow, while I was in the hospital, sold my home. And I didn't know none of this until the sheriff's department came to put us out.

So, then Ms. Hall went to work for us, and I asked her, point-blank, "Ms. Hall, will you be able to save my home?" She says, "Mr. Mitchell, I assure you that we will be able to save your home."

So, fortunately, she was able to get the lawyers, because when we went down to Upper Marlboro and went through the records and things, the fellow had sold my house without my knowledge. I never went to a hearing, I never did anything. He did it all.

So, then I guess the lawyers felt guilty, or whatever, and they made an agreement, through NCRC, with me, that if I could make six payments of $1400 a month, and—which will be the 15th of May—that then we would sit down and the house would be deeded back to me at a interest rate of 3.9.

So, come May 15th, hopefully, the house will be mine, because I can make $1400 a month.

So, that's my success story. I'd just like to catch up with the villain that shammed me, though. [Laughter.]

Ms. WARREN. Thank you. Thank you, Mr. Mitchell.

Mr. MITCHELL. You're welcome.

Ms. WARREN [continuing]. For sharing your story. We really appreciate it.

Ms. Smith.

STATEMENT OF TERESA SMITH, RESIDENT OF PRINCE GEORGE'S COUNTY AND DISTRESSED HOMEOWNER; ACCOMPANIED BY JOHN HARRISON

Ms. SMITH. My name is Teresa Smith. I work at P.G. College on weekends, and I work for public school, Monday through Friday. And I have a learning disability.

My real estate lady, she took advantage of me on both homes. My first home, she took advantage of. The second home, she took advantage of. She took money, putting a high house note I can't afford.

Ms. WARREN. Can you move your mike just a little bit closer? I know it's hard, but we want to be sure we're hearing you.

Ms. SMITH. And she knew my disability. She knew I couldn't read. She knew I couldn't count that well.

And I trusted her for a whole year. In 2 years, the second year, that's when she really took advantage of me.

Mr. HARRISON. Madam Chair, I'm Attorney John Harrison, and I represent Teresa Smith. She asked that I be up here today. She's here for my emotional support.

She was the victim of fraud. Her case is distinct in the wide spectrum of people that are suffering right now. The Metropolitan Money Store was probably the most notorious criminal enterprise in Maryland history, when it comes to equity-stripping schemes.

Ms. Smith is also a victim of that kind of fraud, although it's a different type. We are preparing a civil case to help her with that issue.

The problem, though, is, as Teresa indicated, she's currently taking classes to learn how to read. She has two jobs. I have one. She works here on the weekends, and she works at Prince George County Schools as a janitor. She's a hard worker. She deserves to have a home.

And at no point in time did anyone look after her best interests when she was approached. She cannot read. At no point in time did anyone look after her best interest.

Phillip Robinson will be speaking in a moment, from Civil Justice, and he'll talk more about that kind of victim and, the spectrum of people that need help. But what kind of criteria are we going to use to help the folks that are actual fraud victims, versus folks that maybe are in a difficult loan? It's a different category.

And I would also like to just thank you for being here. It's heartwarming to see our government here on a such a grassroots level. I am a Prince George's County resident. I live in Upper Marlboro, Maryland. And it's just wonderful that you're here doing what you're doing for people like my client.

Thank you.

Ms. WARREN. Thank you.

Thank you for being with us, Ms. Smith. Did you want to say something more?

Ms. SMITH. Yes. I thank you all for listening to me, because I waited for this for a long time, because at the time when I did want help, people just turned away from me. And I finally got in touch with my lawyer, found a nice lawyer, and the people working with him.

I went to different people to get help. They turned me away, like I didn't know what I was talking about. So, I finally found someone, to stand by me and look out for me, for my situation. And I thank God for him, and I thank God for you all.

Thank you.

Mr. HARRISON. If I might say one more thing also——

Ms. WARREN. Please.

Mr. HARRISON [continuing]. I'd like to really thank Secretary Perez, from DLLR; again, Phillip Robinson, with Civil Justice; also April Richardson and Doyle Neiman, over at the State's Attorney's Office. These are the people that help attorneys like me, who, at a grassroots level, are trying to help victims of fraud. They're giving me the tools and information I need on—I have a limited amount of time—the ability to help folks that are in this position. Teresa is struggling just to pay for the bus to get to work. She is struggling to p ay her bills, but she's still a capable homeowner, and this should not have happened to her.

Thank you.

Ms. SMITH. I would like to——

Mr. HARRISON. Go ahead.

Ms. SMITH [continuing]. To say I—when I walk up to my house, I'm afraid somebody is going to come out there and put me out. When I come home at night, I'm afraid there will be a lock on my door and I can't get in. And now I thank God for looking out for me right now, because I may be happy on the outside, but inside, I'm torn up. And I just need help. And I don't want to lose my home, because I came a long way to where I'm at today.

Thank you.

Ms. WARREN. Thank you.

This is why we are here, and I am grateful to all of you for coming and sharing these stories with us.

Do we have questions? Can we excuse this panel? Did you have a question you wanted——

Mr. NEIMAN. I just wanted to make——

Ms. WARREN [continuing]. To ask, Mr. Neiman?

Mr. NEIMAN [continuing]. One comment. And it's really not a question. But, again, thanking you for sharing your personal experiences, as difficult as they are.

But, what I think they all have done, what you all have contributed here, is so significant, because all of you have highlighted, I think, all of the significant issues that have to be addressed at the national level. You highlighted that voluntary efforts by lenders and servicers are not working. You highlighted that disclosure, when you opened up your mortgages, is insufficient; nobody can understand the disclosures that are presented to you. You highlighted the abusive practices of the mortgage brokers. You particularly—and I appreciate Ms. Robison highlighting these foreclosure rescue scams. I think that is the worst result of this, because now you have people who are capitalizing on the misery of individuals. You've highlighted the question "why should you have to rely on a congressman or another executive to get what you really deserve in loan modifications"?

So, I think you highlighted and you've provided as critical a basis for this hearing that we could have asked for, so I thank you all very, very much.

Ms. WARREN. Thank you.

[Applause.]

Ms. WARREN. Thank you.

Mr. NEIMAN. Thank you.

Ms. WARREN. Mr. Silvers, any comments?

Thank you, Mr. Neiman.

Mr. SILVERS. Well, like my colleagues, I want to express my gratitude to each of you for coming here today.

It is difficult and I know it's difficult to come out in public here with TV cameras and discuss these matters and so I just want to express my gratitude and my appreciation for your courage in what you have done.

I have a question for you all, if you wish to say anything more. I think you know that part of our responsibility is to look at whether our government, your and my government, is doing everything we can to put an end to the foreclosure crisis and to see that people, such as yourselves, are treated fairly, and a second part of what we are supposed to do is to oversee and look into what all of our taxpayer dollars are doing when they are provided to banks and financial services companies in order to try to repair the crisis in our economy.

Some people have pointed out that there's a connection between mortgages and what's gone wrong with banks. I'm curious if you have any thoughts, based on your experiences with your lenders, as to what your government ought to ask of the financial institutions in the mortgage markets. Do you have any—and in particular, if you can think of anything that would have been helpful as you were dealing with these experiences, being tied up all this time, as you've described it, anything you think would be helpful, would have been helpful to you or would be helpful to your neighbors in similar situations, any tools, any kind of—anything your government might be able to do to make the process of keeping folks in their homes quicker and easier?

Ms. WARREN. Ms. Robison.

Ms. ROBISON. Yes, ma'am. We refinanced our home twice and I will be the first to admit that we did not exercise probably great judgment in some of the financial decisions that we made. It is not all the fault of our lender. We probably would have fared better had my husband and I not gotten ill. Life happens.

But one of the things that I found to be almost bizarre was that when we were called by the company that gave us our second mortgage, we never had to go into their office, we never had to make appearances. We didn't know really who Wits they were. Everything was done via telephone and fax machine. They made it very, very, very easy for us to take that great big old piece of pie because we had a need.

I mean, we had a need and they had an offer and that whole dealing, it didn't seem right and I had that feeling that it didn't seem right, but I wanted to stay in my home. I needed their money.

I feel as though if they had been made to be more accountable, more reputable, it probably would have made it a little more difficult for us to get that loan, but in the long run, I wish we didn't ever refinance. We could have probably made it out a better way. We took the easy route and they made it really, really easy for us because you can get a lot done on a telephone and a fax machine without ever having to really appear before somebody or meet somebody. It wasn't done locally.

Ms. WARREN. Thank you. Mr. Mitchell.

Mr. MITCHELL. Yes, I have the same opinion that she does because when I refinanced, it was the same way. I talked to someone way in Indiana. I never seen them, I never visited there. It was all done by fax machine, through telephones. Even when they paid my taxes, instead of the money coming to me, it went to P.G. County and they paid the taxes. I filed the paperwork saying that it was paid and all of this, but it wasn't like when I first bought the home.

I first bought the home from Virginia Mortgage and someone came to my home, sat down, talked to me. I could ask questions back and forth, but when they did it, somewhere $35,000 got lost. I don't know if it went in the agent's pocket or whoever, but it never got to me, and I said, you know, I think I've been scammed. I think I've been scammed, but at the time, all I knew was that I wanted to save my home. I had my home. Now how do I make this person pay me?

When I realized I couldn't, that's when things went haywire and then you try to go in, get more people to refinance and they tell you they can't do this for you and they can't do that for you. The loan, they should never have made you the loan and all that.

Well, as a resident of the state, I think there should be some government in that because if there was a loan made to me and they knew I couldn't pay it, why was it made to me? Why didn't they leave me at the $1,100 I was paying and said, well, you've got to make a loan to pay your taxes or rebuild your house or whatever? But just to take people's money knowing that you can't pay it and that sooner or later something's going to happen, I would say the government fails on that because everything through a house is through Federal Government.

Everybody know I couldn't pay that loan except me. [Laughter.]

But yet still they did it, and two years later, I'm in the hospital, then someone can take my home and just sell it and how we find out is when the Sheriff's Department come to your house to tell you you gotta go. Now, there's a big problem and that's when good people go bad.

Ms. WARREN. Thank you.

Mr. MITCHELL. That's all I have to say.

Ms. WARREN. Thank you. Thank you. Senator Sununu.

Senator SUNUNU. Thank you. Thank you all for being here. I want to encourage you all to provide us with as much information as you possibly can about your experiences. What you've shared with us today is extremely helpful, but you may have additional information that obviously doesn't fit into five minutes. You may leave here, you may think of something else that you wanted to add.

It's extremely helpful to provide that information because we're responsible, as our name implies here, the Oversight Panel, for looking at how this $700 billion that's been allocated for the TARP is used and our President has just announced a new initiative using some of those TARP funds to help with mortgage modifications and foreclosures and so what we want to do is look at what has been proposed and try to determine whether it would have helped in your situation and therefore will help people just like you in the future.

So any information you can provide for us will help us to do our job in looking at all the new initiatives that the Administration has put forward to try to deal with this and then make an assessment of whether or not we think those ideas can be improved even further to make them more effective and ultimately to make sure that the taxpayer funds that are being spent here really do what we all hope they'll do and that's deal with this housing and foreclosure crisis and the bigger credit crisis that it's caused.

So thank you.

Ms. WARREN. Thank you again. We appreciate it. This panel is excused.

[Applause.]

Ms. WARREN. While we're settling in here, the Chair wants to acknowledge that we have Secretary Skinner in the audience, I believe. Secretary Skinner, thank you for being with us. The Secretary of Housing for the State of Maryland.

Secretary SKINNER. Housing and Community Development.

Ms. WARREN. Housing and Community Development. So there are many listening to the stories today. We appreciate you being with us.

Also, for those of you who want a chance when we have concluded this panel to add any comments for the Congressional Oversight Panel, that's what the two microphones are here for. If you got a slip earlier, it's not necessary to fill it out, you're just welcome to come to one of the mics and we welcome your comments, once we have concluded with this panel. So that will be our third panel for the morning.

I want to start by welcoming our next panel, our second panel. We have Lisa Butler McDougal, who is Co-Chair of the Coalition for Homeownership Preservation in Prince George's County and Executive Director of Sowing Empowerment and Economic Development (SEED). I like that.

We also have Mr. Phillip Robinson, Executive Director of Civil Justice, Inc.

We have Anne Balcer Norton, Director of Foreclosure Prevention at St. Ambrose Housing Aid Center. Welcome.

We have Secretary Thomas E. Perez, who's Secretary of the Maryland Department of Labor, Licensing and Regulation.

Thank you all for being here today. We appreciate your taking the time. We ask again if you could hold your comments to five minutes and I think we have someone to help you see and who will hold them up. He's probably outside your line of vision and that may be a little more helpful in that direction for you. But if we can hold our comments to five minutes but the record will remain open. Your written statement will be included in the record in its entirety.

Ms. Norton, welcome, and if we could start with you.

STATEMENT OF ANNE BALCER NORTON, DIRECTOR OF FORECLOSURE PREVENTION, ST. AMBROSE HOUSING AID CENTER

Ms. NORTON. Yes, thank you. Thank you, Chairperson Warren. Thank you, Senator Sununu, Mr. Silvers, and Mr. Neiman, for the opportunity to testify today.

My name's Anne Balcer Norton. I'm Director of Foreclosure Prevention at St. Ambrose Housing Aid Center.

St. Ambrose is a 41-year-old non-profit housing institution, located in Baltimore, Maryland, but we serve residents across the state of Maryland.

Prior to joining St. Ambrose, my background was as general counsel for a mortgage lender that was based in Baltimore but with offices around the country.

I came to St. Ambrose in 2007 to run the Foreclosure Prevention Division and the division combines direct legal representation as well as housing counseling services for homeowners that are facing foreclosure.

We work with about 3,000 families each year that are facing foreclosure and they're in all stages of foreclosure from every corner of the state of Maryland.

It's based on this experience that I wanted to share our observations from the ground and particularly as they relate to effective loss mitigation efforts and in particular what I would refer to as institutional barriers to obtaining successful loss mitigation relief and these are really based on our direct observations.

You know, I provided my written testimony and I know I have a brief amount of time, so I'm just going to focus on a few points.

One area that I addressed is that what we are seeing now are really what can be generally or generically categorized as two different groups of homeowners that are seeking assistance from St. Ambrose. Those are—the first are those that are just ill-suited for the mortgage product that they were provided, who probably otherwise could have afforded a mortgage, could have afforded a property, but I think this was far more eloquently covered by Ms. Robison, Mr. Mitchell and those on the panel prior to me, so I will not get into this.

The others that we are seeing are those that are affected by the downturn in the economy. These are people that have lost their jobs, have in some cases quickly taken on a new job but not healthcare but it pays less than the prior position that they had.

So of these categories of homeowners, there are unique challenges in each group. You know, they are complicated by fraud, complicated by geographic variables, and in my written testimony, I break these down into really six areas that we have seen as barriers to obtaining, you know, sustainable loss mitigation and those are affordability and re-default rates and that's affordability with the loan modification when loss mitigation is offered, the required length of delinquency as a prerequisite to obtaining loss mitigation which has also been addressed in the prior testimony of Congressman Van Hollen, negative equity and junior liens, and I think Mr. Silvers had mentioned whether interest rate reduction is sufficient or if principal reductions are necessary and particularly when you look at an area like Prince George's County, the interest rate reduction alone is not making an affordable or long-term sustainable loan modification without also reducing principal.

The other areas are capacity, capacity from the loan servicer as well as for the non-profit housing counseling agencies, access to credit and retail markets, and this is something that was addressed as well as just the barriers when dealing with loans that have been securitized.

In examining these barriers, the two areas that I just want to quickly address are capacity and access to credit. The others I cover in more detail in my written testimony, and as far as capacity is concerned, the capacity of the mortgage loan servicers, we face two barriers in this. Either they don't have enough staff or they so quickly and artificially ramp up staff that they have multiple data procedures, data collection procedures, you know, contradictory points of entry, and procedures for processing requests. So although they provide a single point of entry for loan counselors, when you submit documents, they're typically lost, misplaced or the knee-jerk reaction of sending out these mass or blind mailings for loan in modification offers to homeowners in default which are not based on affordability, they're not based on income. They're offers that are blanket offers in which the homeowner either accepts or rejects.

When addressing capacity, obviously we have to look at the capacity of housing and counseling agencies which is a concern which again I cover in more detail in my written testimony.

The one point I just want to quickly make is, that I'm not sure really was covered in any other testimony today, is about the access to credit in the retail markets and this has become an increasing problem for those homeowners who are current, not necessarily in eminent risk of default but would benefit from a reduced interest rate, you know, through a sound responsible refinance product and when products through Fannie Mae, Freddie Mac, or even FHA, what we're seeing is, you know, this infusion of capital or the innovative products that are being announced do not trickle down to the retail market.

There are restrictions on credit that's available for even those who are sound credit candidates that have decent—you know, very good credit histories, requiring considerable down payments and just on the retail side, the warehouse lines of credit that fund these loans are prohibiting a lot of the loans that would otherwise fit Fannie Mae or Freddie Mac guidelines to be held on the lines of credit.

I see that time is up and I can certainly cover this in more detail and I mention it in more detail in my statement and I know it's more complicated, you know, and I can be here all day on this topic alone, but I do want to thank you again for your time.

I do want to again stress that what we have seen is that voluntary efforts to provide sustainable loss mitigation are not working, more of what refer to as the character fixes certainly are necessary, including our recommendations for the Bankruptcy Code must be amended to permit cram-down for primary residences in Bankruptcy.

So thank you, and I apologize for this abbreviated summary.

[The prepared statement of Ms. Norton follows:]

St. Ambrose Housing Aid Center, Inc.
321 East 25th Street ■ Baltimore MD 21218

Phone: 410.366.8550 extension 228
Web: www.stambros.org
Email: AnneN@stambros.org

Testimony of Anne Balcer Norton, Esquire
Director, Foreclosure Prevention
St. Ambrose Housing Aid Center, Inc.
Before the Congressional Oversight Panel
February 27, 2009

Thank you Chairperson Warren and Members of the Panel for inviting me to testify here today on the state and local efforts to combat mortgage foreclosures.

My name is Anne Balcer Norton and I am the Director of Foreclosure Prevention for St. Ambrose Housing Aid Center, a non-denominational, 501(c)(3) non-profit, located in Baltimore, Maryland. From its founding in 1968 to today, St. Ambrose has provided direct housing services to over 100,000 low and moderate income families through five distinct but interrelated housing programs that serve families across Maryland. The mission of St. Ambrose Housing Aid Center is to create, preserve, and maintain equal housing opportunities for low and moderate income people and to encourage and support strong and diverse neighborhoods.

The Foreclosure Prevention Division of St. Ambrose provides default counseling services, direct legal representation and legal counsel to homeowners and nonprofit housing agencies statewide. St. Ambrose has provided foreclosure prevention services for the last 31 years. During this past year, our office provided foreclosure prevention assistance to nearly 3,000 families from across Maryland. Approximately 30% of our clients were single female heads of household and 74% African American.

I appreciate the opportunity to testify and it is my intention to convey to this Panel the effectiveness of loss mitigation efforts, as observed from the ground, in consideration of the geographical and economic diversity that results in unique challenges to borrowers across the state of Maryland.

In the last few years, there has been a disturbing shift in the contributing causes of default and delinquency. Death, divorce, disability or loss of income were the predominant reasons for someone to contact our office for assistance. Today, an overwhelming number of homeowners in default and facing foreclosure are in loans that were set to fail from the point of origination. Of this group, the vast majority of homeowners were approved for loans through reduced or no documentation mortgage loan products. Borrowers received underwriting approval that relied on the equity in the subject property and a mortgage originator too often typed into the application whatever income amount was needed to obtain approval regardless of whether or not it in any way resembled the borrower's actual income.

Such practices were intended to provide short term loans in which increasing property values would give way to future refinancing of the same property and quick returns on investment. Due to the tightening in the credit markets and collapse in the housing market, we now know that such reasoning failed.

In addition to the homeowners facing foreclosure just described are those borrowers that are in default solely as a result of the current economic downturn. This category of borrowers may have otherwise been able to obtain an alternative to foreclosure but due to tightening in the credit and housing markets are unable to sell or refinance their properties in order to do so.

Both categories of homeowners facing foreclosure that seek the services of St. Ambrose housing counselors and attorneys present unique challenges, challenges that are often compounded by the barriers that are faced when seeking sustainable loss mitigation remedies. Despite reason for default or geographic locale, our observations and frustrations remain the same. For the purposes of providing brief testimony, I will limit my summary of our observations to the prevailing six barriers to mitigating losses from foreclosure:

1. Affordability and redefault rates;
2. Required length of delinquency as a prerequisite to loss mitigation;
3. Negative equity and junior liens;
4. Capacity;
5. Access to credit and retail markets; and
6. Securitization

Affordability and Redefault

In recent months, we have observed an increase in previously modified loans that have returned to a delinquent status. We attribute the increasing redefault rates to previously offered loan modifications that were not based on affordability. It has become common practice for servicers to send mass mailings of loan modification offers to borrowers in default. These blind offers are sent to borrower with instructions that they sign and return the agreements or face foreclosure. The offers are not based on the income, assets or household budget. In other cases, modifications that recapitalize arrears and late fees amortized over the remaining life of the delinquent loan often increase payments above the previously unaffordable payment without regard to long term sustainability. Predicting long term sustainability and measuring affordability requires a case by case analysis of each given borrower's ability to repay and to retain homeownership.

Length of Delinquency

Prior to engaging in loss mitigation, most pooling and servicing agreements and servicing guidelines that we have reviewed dictate the length of time that a borrower must be past due. This time is typically around 90 days delinquent. During this time, considerable fees, penalties, unpaid interest and other collection costs accrue, while at the same time, the borrower falls further in default. These costs are added to the loan balance if a modification is offered, the recapitalization of the arrears and accrued costs typically increases the new payment beyond that which was previously deemed unaffordable. Additionally, the significant accrual of arrears and length of time in default dictates the collection of an upfront down payment or deposit that is necessary to qualify for a loan modification. The deposit is based on the outstanding arrears, including all fees that have accrued during the previous 90 days. By providing loss mitigation services to borrowers at imminent risk of default or in stages of early default, it is in our opinion that through avoiding the costly fees that accrue over the 90 day period of delinquency and are recapitalized through a loan modification or required as a lump sum deposit will lessen the redefault rates for these borrowers.

Negative Equity and Junior Liens
Prince George's County illustrates the increasing barriers to achieving sustainable loss mitigation as a result of declining property values and flooded inventories of housing stock that are for sale in the market. Communities within jurisdictions across the State that experienced an increase in property development or artificial inflation of home value face a precise challenge to obtaining sustainable loan modifications in light of declining markets. In other areas, including communities within Baltimore City, inflated appraisals used at the time of loan origination using false or at times, fraudulent measures, have seen a dramatic decline in home values obstruct sustainable loss mitigation efforts. It is in our opinion that principal reductions pursuant to loan modification agreements are the only reasonably sustainable alternative to foreclosure and least costly option for investors. Principal modifications, however, continue to be the least favored of the loss mitigation options available to homeowners and yet, particularly in declining markets, long term sustainability will be contingent on the increased use of this option.

Capacity
Capacity in light of surging volume serves as a barrier to effective loss mitigation as it relates to both servicer as well as HUD certified housing counseling agencies' capacity to respond to the current crisis. Servicers either lack the staffing to effectively respond to loss mitigation requests or have artificially ramped up capacity at a level that precludes training and oversight of staff. For those that have doubled and tripled staff size in a very short frame of time, there remains a disconnect in the conveyance of critical information that is necessary to facilitate timely changes in loss mitigation options and protocol. There is further a lack of accountability and oversight. Within a single servicer, there are multiple data systems and procedures for processing requests. Counselors and borrowers are provided a single point of entry and yet, when following the protocol set-forth by a given servicer, too often files are transferred from department to department, documents are misplaced and authorizations expire. While at the same time, late fees and penalties continue to accrue and the file continues on the fast track to foreclosure. From point of submission to resolution of a file can take anywhere from 3 to 5 months. This already trying process has only been compounded by the acquisitions of struggling financial institutions into larger ones that are not prepared to integrate staff procedures and points of entry for submission of files at the time of acquisition. Clear objectives and a precise strategy for processing loss mitigation requests are needed. Unfortunately, as mentioned in my summary of affordability, resolution of this crisis requires case by case, loan by loan analysis to determine affordability and long term sustainability. Under the current model, capacity to fulfill this objective is lacking.

Housing counselors play a critical role in assisting defaulting homeowners obtain sustainable loss mitigation relief while at the same time, mitigating losses to investors. For non-profit housing counseling agencies, capacity continues to be a concern making it difficult to provide assistance to the surging numbers of homeowners that are requesting relief. Federal funding for housing counseling has been made available, however, the funding is provided through a fee for service model that precludes agencies from increasing capacity in order to increase the number of households served.

Access to Credit and Retail Markets
For many homeowners, access to low cost refinancing could provide the savings through a reduced interest rate needed to evade foreclosure. There are certain barriers prohibiting or making it more expensive for homeowners to access programs and products available through Fannie Mae, Freddie Mac and FHA through retail lending channels. The warehouse lines of credit that fund retail loans at closing have tightened restrictions on loans that can be held on a specific line of credit before it is sold. Loan to value ratios and credit score floors prohibit retails lenders from making loans available even though they comply with Fannie, Freddie or FHA guidelines. In

other cases, pricing available through retail lenders is higher as a result of credit scores due to warehouse lenders that are risk adverse even in cases where borrowers have above-average credit scores. The response from the wholesale market makes clear that the infusion of capital to these institutions has not trickled down to the retail mortgage market. Further assurance of increased liquidity is needed to spur retail markets to provide affordable credit to homeowners needing to refinance.

Securitization
As previously stated, the current crisis demands clear objectives and precise strategies employed by servicers to engage in loss mitigation. Such strategies are complicated by the prevailing servicing guidelines and threats of litigation by investors. We routinely represent borrowers that have loans serviced by TARP recipients and in which the investor has also received TARP funds and yet, our counselors continue to receive the same inconsistent responses to our requests for reasonable and sustainable loss mitigation. From my colleagues in the industry, I have been advised that the threat of litigation for breach of obligations under pooling and servicing agreements is a legitimate concern. Proposed incentives to modify mortgage loans may fail in the face of such threats unless the servicing guidelines already permit the loss mitigation relief requested. It is in our opinion that revising the bankruptcy code to permit the cramdown of a debtors' residential mortgage loans through bankruptcy provides the perverse incentive that is needed to require investors to direct servicers to engage in sustainable loss mitigation.

Despite recent high profile announcements committing to engage in loss mitigation, it is in our experience that voluntary efforts do not provide the consistent and systematic loan modifications that are critically needed to curtail the current crisis.

Again, thank you for the opportunity to testify today. This concludes my testimony and I am available to provide clarification or answer any of your questions.

Ms. WARREN. Thank you. Thank you, Ms. Norton, but your remarks are here. I was able to read them last night and they will be made part of the public record.

Ms. NORTON. Thank you.

Ms. WARREN. Thank you very much.

Ms. McDougal.

STATEMENT OF LISA McDOUGAL, CO-CHAIR, COALITION FOR HOMEOWNERSHIP PRESERVATION IN PRINCE GEORGE'S COUNTY, AND EXECUTIVE DIRECTOR, SOWING EMPOWERMENT AND ECONOMIC DEVELOPMENT (SEED)

Ms. MCDOUGAL. Good morning. I'm Lisa McDougal.

Ms. WARREN. Could you pull the microphone a little closer so that everyone can hear you?

Ms. MCDOUGAL. Better?

Ms. WARREN. I think that's better.

Ms. MCDOUGAL. I hope so. I want to echo the sentiments of everyone that's gone before me in welcoming you to Prince George's County and thanking you for taking the time in coming down.

Good morning. My name is Lisa Butler McDougal. I'm the Executive Director of Sowing Empowerment and Economic Development, also known as SEED. I'm also here today representing as the Co-Chair of the Coalition for Homeownership Preservation in Prince George's County.

In the spring of 2007, the Coalition was formed by the public and private sector leaders to address the high number of foreclosures occurring in the county. The goal of the Coalition is to strengthen homeowner assets and neighborhood stability by helping troubled borrowers and by increasing homeownership.

The Coalition mission is to preserve and strengthen homeownership by increasing education and other resources that foster good consumer borrowing choices while also working to eliminate foreclosures and abusive real estate practices in Prince George's County.

One way the Coalition is working to educate homeowners is through the creation of the Under the Shadow Workshop that Lloyd mentioned earlier. The workshop does travel throughout the county and is held every week through 10 or more counseling agencies, most of them HUD-approved counseling agencies. It's offered in English and Spanish.

The goal is to inform clients who are unaware about their mortgage situation. We have people who come to the workshop who are not behind, who have what I call a kind of financial—they're a financial hypochondriac. They're hearing that there's a foreclosure crisis and I want to be a part of it, too, and then there are others who are very seriously behind and may have a stack of unopened letters and we use this as a way of determining exactly how serious an individual is when we bring them in for counseling.

But more than anything, they're just very unsure about the process and they don't understand what it means and a lot of individuals don't understand that foreclosure is a legal proceeding. They look at it in some ways of the same kind of repossession when you don't pay your car and you have to park it around the corner to hide it from the snatch man and this is a little bit different, that this is a legal proceeding.

The Coalition has also provided training for counselors on best practices, available resources, and we're in the process of really gearing up toward fighting a very aggressive foreclosure fraud.

Another counselor, when we were preparing to come in here today, handed me a very thick envelope just of all the different types of solicitations that look like government solicitations that will say that they are from HUD that will tell you all you have to do is sign on the line to get your $8,000 piece of the stimulus. I didn't know that—I knew about the $8,000 tax credit for the first-time homebuyers, but I didn't know that if I just signed this paper that I would get $8,000 and give you my house. So it just doesn't seem like it balances.

There are nearly 10 HUD-approved housing counseling agencies who are members of the Coalition. Most of us are averaging anywhere between five to 10 calls a day from individuals who are—and families whose dream of homeownership is really turning into a nightmare. We immediately assess their circumstance, prepare authorization work so that we can begin talking with the lender on their behalf and really looking at their financial situation and preparing budgeting and really helping clients to understand that not everyone is going to retain their home, not everyone should retain their home and really helping the individuals be very realistic, especially if they've had the kind of life circumstance that would prevent that from happening.

Once a proposal is submitted to the servicer, it could take somewhere between three to five months before a decision is even reached and even possible that in some cases we're finding where new loan terms are only given for five years and in a lot of cases loan modifications are given to individuals that they still cannot afford and they're feeling very pressured to take them.

We've also heard of instances where a lender has declined a modification request from a client while working with a counselor but then would turn around and send paperwork with a different type of modification to the individual at home, circumventing the counselor and the best advice that we would be able to provide for the homeowner, and those type of tactics, we believe, really have to stop.

In another instance, a lender was initially willing to accept a short sale but declined the contract because the cost of the contract was only $8,000 less than what they wanted for the home, but then the home went into foreclosure and they ended up putting it on the market and selling it for a $114,000 less than what they actually wanted. So they could have just taken the contract from the borrower who would have walked away and been able to restore their financial future, and I have the name. The first one I mentioned was Countrywide, the second one was American Servicing Company.

Technology is also a huge obstacle. You can imagine, as we're pulling individuals, a lot of their financial information, hardship letters, we can have a packet for someone that could be anywhere between 40 pages and we're being told to fax those things. When we fax them, we're told by other lenders that they're just not equipped to handle it.

Wells Fargo and JPMorganChase at a Foreclosure Summit that Fannie Mae set had said that they were just not prepared for the onslaught and we were told by another servicer that a lot of times when we fax the cases in, that they just sit on the table. If we don't call, they don't do anything with them.

So I agree with Anne and those that have come before me in saying that involuntary servicing methods are just not working and individuals really need to know, just as the panel that came before them, that their government is really going to step up and work on their behalf. Before I close, I did want to acknowledge that the State of Maryland, I know Secretary Skinner is here, there are others that work with the counseling agencies very closely and they've been on the forefront in making sure that we've had the resources that we've needed and making sure that we've had the right kind of technology that would allow us to come to the right kind of outcomes because, as a non-profit housing counseling agency, two years ago our business was first-time homebuyers and we were very happy to have a caseload of a hundred or so first-time homebuyers. We're just glad that those individuals, because of the right kind of counseling and education, are not coming back and joining the more than 300 cases of foreclosures that we're handling now.

So thank you again.

[The prepared statement of Ms. McDougal follows:]

CONGRESSIONAL OVERSIGHT PANEL

"COPING WITH THE FORECLOSURE CRISIS: STATE AND LOCAL EFFORTS TO COMBAT FORECLOSURES IN PRINCE GEORGE'S COUNTY, MARYLAND"
FRIDAY, FEBRUARY 27, 2009, 9:30 AM

TESTIMONY
BY
LISA BUTLER MCDOUGAL
EXECUTIVE DIRECTOR, SOWING EMPOWERMENT & ECONOMIC DEVELOPMENT, INC
CO-CHAIR, COALITION FOR HOMEOWNERSHIP PRESERVATION IN PRINCE GEORGE'S COUNTY

Good Morning, my name is Lisa Butler McDougal, I'm the Executive Director of Sowing Empowerment & Economic Development, Inc. also known as SEED and the Co-Chair of the Coalition for Homeownership Preservation here in Prince George's County. In the Spring of 2007, the Coalition was formed by public and private sector leaders to address the high number of foreclosures occurring in this County. The goal of the Coalition is to strengthen homeowner assets and neighborhood stability in the Prince George's County area by helping troubled borrowers and by increasing homeownership success. The Coalition's mission is to preserve and strengthen homeownership by increasing education and other resources that foster good consumer borrowing choices while also working to eliminate foreclosures and abusive real estate practices in Prince George's County.

One way the Coalition is working to educate homeowners is through the creation of an extensive workshop entitled, "Under the Shadow, Dealing with the Threat of Foreclosure." The workshop rotates weekly throughout the counseling agencies in the County and is offered in both English and Spanish. The goal is to inform clients who are unsure about their mortgage situation, unsure about the foreclosure process and to provide them with available options. Under the Shadow is also used by the Baltimore Homeownership Preservation Coalition.

The Coalition has also provided training for counselors on best practices, available resources, and we are in the process of gearing up for an aggressive public education campaign to combat foreclosure fraud and deceptive or predatory practices.

There are nearly ten (10) HUD approved housing counseling agencies who are members of the Coalition, and most of us are averaging five (5) to ten (10) calls per day from individuals and families whose dream of homeownership is turning into a nightmare. We immediately assess the borrowers circumstance, prepare necessary authorization paperwork for their lender and begin the counseling process of budgeting, determining the best course of action and providing a proposal to the lender that will lead to the borrower resuming normal payments.

Once a proposal is submitted to a servicer, it can sometimes take three (3) to five (5) months before a decision is reached and even then it is possible that the new loan terms are only good for (5) years with small reductions in payment amounts. We've seen cases where investors are not willing to agree to workouts and often provide clients with options they cannot afford, even after reviewing the client's financial situation including their household budget. We've also heard of instances where a lender declined a modification request from a client working with a counselor but later sent unfavorable modification documents directly to the homeowner.

In another instance a lender was initially willing to accept a short sale, a buyer was found for the home but the lender rejected the sale because the contract amount was $8,000 less than what they wanted. The home went into foreclosure and is now listed for $114,000 less than the initial contract the lender rejected from the borrower.

Technology is also an obstacle. Many lenders are requiring that counselors fax documents of up to 40 pages, per client often times asking that we include the loan number on each page. On the rare occasion we are able to scan and email documents to a representative, time is saved. Also, many of the lender representatives are not properly trained nor are they sure what options may be available for our clients. At a recent foreclosure summit sponsored by Fannie Mae, Wells Fargo and JP Morgan Chase both admitted to being caught off guard with the magnitude of the crisis. Another lender informed one of our counselors that when we submit files, they are put on a table and are not touched again until someone calls on behalf of the client. If we are not aggressive in our follow up, they don't review the file and it will just sit there on the table.

Internal communication within the lenders is another problem. You can imagine our concern when the loss mitigation department is not talking to the representatives in the foreclosure department or the escrow group.

Prince George's County is unique as it was a specifically targeted market for sub prime lending. The high price of the homes in this County coupled with the loss and reduction of income have severely impacted the ability of homeowners to maintain high mortgages and the falling home values have made it nearly impossible for lenders to offer viable refinance options.

Governor Martin O'Malley and the Maryland Department of Housing and Community Development Secretary Raymond Skinner have been here from the very beginning, working to help us stay one step ahead. The programs created, resources immediately made available and the constant flow of information and support through Kelly Vaughn, Reginald Stanfield and Karen Ashby is unmatched. However, we hear the predictions daily of the new resets coming that will cause more delinquencies and we are very concerned for the counseling agencies on the front lines because our resources are running out. Most of the organizations are community nonprofits who with the exception of some grant funding, are compensated on the back end through the National Foreclosure Mitigation Counseling program for workouts which makes it very difficult for organizations like SEED to hire and maintain the staff we need to continue serving the nearly 300 foreclosure cases we have.

There are still a lot of bad loans out there that need fixing. We know principal reductions are unpopular and we are not looking to reward the actions of borrowers who were not responsible. One of the first things we tell our clients is that not everyone who walks through our doors will remain a homeowner.

There are cases where banks are offering incentives to servicers to help troubled borrowers. We believe those same incentives should be offered to the community nonprofits who are working tirelessly to do our part to keep the economy afloat while providing hope and serving one borrower at a time.

Thank you.

Ms. WARREN. Thank you. Thank you, Ms. McDougal. We appreciate your being here.

Secretary Perez.

STATEMENT OF THE HONORABLE THOMAS E. PEREZ, SECRETARY, MARYLAND DEPARTMENT OF LABOR, LICENSING AND REGULATION

Mr. PEREZ. Thank you, Madam Chair and Members of the Oversight Board.

My name is Tom Perez, and I'm the Secretary of the Department of Labor, Licensing and Regulation. I'm more the hall closet of state agencies. I do a number of things. I have a robust consumer protection portfolio. I have the Commissioner of Financial Regulation who oversees and charters Maryland's state-chartered banks as well as one of the tentacles in the octopus known as DLLR.

I want to acknowledge again my good friend Ray Skinner. I also want to acknowledge Sam Dean from the Prince George's County Council who's in the audience who's been a real champion in this issue.

Secretary Skinner and I have co-chaired the Governor's Foreclosure Prevention Task Force and I was listening to Mr. Neiman's very cogent remarks and we've been focusing on all those things that you acknowledged and I don't want to be redundant of that very comprehensive approach. We had three different workgroups. We had a legal-regulatory reform group that I oversaw. We had a financial products group that Secretary Skinner oversaw, education outreach prevention that we did jointly. Secretary Skinner's done remarkable work in terms of working with the housing counselors. These folks are boots on the ground and they are a lifeline and the real stars are the courageous people on this panel, meaning no disrespect, but the people before me, and I could spend all of my time talking about housing counselors. I could spend all the time talking about a lot of the laws that we enacted.

We addressed the ability to repay. We addressed a lot of the defective features in the loan products. We addressed the licensing problems. The case that you heard from this witness about The Metropolitan Money Store, that is the largest mortgage fraud case in the United States right now, and it is out of Prince George's and Charles Counties, originated in our office, and in terms of what it really illustrates, the main ringleader in that case, her job prior to starting the Metropolitan Money Store, she was a stripper. That's what she did for a living, and it really illustrated the absence of any meaningful barriers to entry for this area. So that's really some of the areas that we've focused on.

I really want to focus, though, on two areas that I have spent a lot of time on, which is, Number 1, data collection, and Number 2, our interaction with servicers.

The legislation that we passed with the governor's leadership last year addressed the problem prospectively and I think we've gotten a good handle on the defective features, et cetera, but the panelists before you, it is of no moment if they had loans two years ago and they're in the soup.

Yes, we extended the foreclosure period, but we really need to work with their servicers. We need to take meaningful and scaleable actions and so contemporaneous with our actions, we were negotiating with a dozen loan servicers to come up with agreements so that we could put in place large-scale modifications and we did reach agreements with six servicers and this is the punch line of what I learned, having spent a lot of time face to face with loan servicers.

I learned—I have two hypotheses. Why aren't there more modifications? Hypothesis Number 1. Their hands are tied by pooling and servicing agreements. Hypothesis Number 2. They have the authority but not the will to modify.

I would respectfully observe, based on months and months of work, face to face meetings, that what I would conclude is that they have the authority in the vast majority of cases. Why do I say that? Because they told me that. What they lack is the will to modify and that is the real fundamental problem——

[Applause.]

Mr. PEREZ [continuing]. With the servicers. We got a presentation in one of our meetings from Wells Fargo who told us their, quote unquote, innovative modification practices, they used an example of an individual who had an $1,100 payment. He was in the soup and they modified his loan with one of their innovative loan practices and his new payment was $1,466.66, to which I asked the obvious question, how's he going to afford that? Answer. I'll have to get back to you, and so that is part of the problem, is that we really need to address the issues of the will. The bankruptcy reform is one way to get at it and there are a host of other issues.

I want to move quickly because I know that my time is limited.

We are one of the only states in the country that can provide you with information on what servicers are doing. We require servicers to submit data and that data has been very interesting. We've seen, for instance, and it's in my testimony, is that in August and September, roughly 60 percent of the modifications, and we're talking a denominator of roughly a thousand modifications a month, half of which, by the way, are from Countrywide which will be relevant in a minute, about 60 percent of those modifications resulted in the same or higher monthly payment.

You move to October, 52 percent resulted in the same or higher payment. In November, 43 percent result in the same or higher payment. Throughout this, Countrywide is about half of that cohort. Countrywide throughout has about 75 to 80 percent of their modifications are the same or higher payment. So to put it slightly differently, a number of the servicers with whom we have reached agreements are actually doing a better job. Places like Ocwen, for instance, third party servicers are tending to do better than portfolio servicers.

We have seen no evidence of progress in the Countrywide context and Wells Fargo refused to sign an agreement and does not provide data to us, so I cannot comment on what they are or are not doing, but I would simply observe that if you have this data, it is powerful. We tried to get the OTC, OTS, OCC to do the same thing. We worked with our congressional delegation, didn't have any luck. That is a critical element here as we move forward.

Finally, a couple quick concerns that I have. This attempt, and it's a very righteous and appropriate attempt, to ensure that we have large-scale modifications is going to lead to a proliferation of mitigation specialists and we must get a handle on that at the front-end because these mitigation specialists—we're going to have another panel like the panel we had in front of us if we don't get a handle on that at the front-end.

What we've done in Maryland is we've prohibited upfront payments through mitigation specialists who are helping people who are in default. We have to do that at a federal level. We have to get a handle on this or you're going to be having congressional oversight hearings in which you're going to hear from witness after witness after witness who was victimized and with that, I will simply say we have lawyers who are helping people and here's one more problem.

When they attempt to help someone who has a foreclosure tomorrow, they can't do it with the federal money because the bill that passed last year prohibits lawyers from providing legal assistance to someone who's in a foreclosure proceeding. Don't quite understand that one and I hope we can get a handle on that as we move forward because lawyers in this room, we have an army of pro bono lawyers, but we can't avail ourselves of any of the federal money to help people because it's deemed to be in litigation. So that's one more observation I would make.

Thank you for your time. I apologize for going a minute or two over.

[The prepared statement of Mr. Perez follows:]

Testimony of Secretary Thomas E. Perez
Maryland Department of Labor, Licensing and Regulation
Congressional Oversight Panel
February 27, 2009

Good morning Madame Chair and members of the Panel. Thank you for the opportunity to testify before you today regarding Maryland's efforts to combat foreclosures, barriers to foreclosure mitigation and the need for a meaningful state-federal partnership in these efforts.

Maryland's battle against the foreclosure crisis that has devastated families and communities across our State is approaching the two year mark. Governor O'Malley convened the Homeownership Preservation Task Force in 2007, which led to sweeping legal and regulatory reforms in 2008. The Task Force also led to the creation of an extensive outreach effort and a number of financial assistance products to help homeowners avoid foreclosure. I will begin with a brief summary of our actions, and then discuss some lessons we've learned that could inform any federal action going forward.

Legal and Regulatory Reform

In response to the foreclosure crisis and as a result of the Task Force recommendations, Governor O'Malley introduced and later signed into law four bills, all of which received overwhelming bipartisan support from the General Assembly. The new laws created greater protections for homeowners at the front end of the lending process by tightening lending standards and imposing stricter licensing requirements on the mortgage industry. We banned pre-payment penalties for mortgage loans and now require a lender or broker to verify a borrower's ability to repay a loan, including their ability to repay at the fully indexed rate for an adjustable rate loan.

The new laws also eliminated the fast track to foreclosure by extending the foreclosure process in Maryland from a minimum of 15 days to approximately 150 days from default to sale. The foreclosure process law also requires that more notice be given to homeowners before a foreclosure filing and at the time of filing. They also give additional tools to investigators, prosecutors and homeowners to combat mortgage fraud. The new foreclosure process law, meanwhile, provides homeowners with more time and notice to find alternative solutions.

The legislative package also included two laws to crack down on mortgage fraud, including the creation of a criminal mortgage fraud statute and a strengthening of protections against foreclosure scams.

Our legislative package was supplemented by a number of new regulations adopted to combat foreclosures and prevent future crises. The new regulations included the imposition of a duty of good faith and fair dealing on brokers, lenders, originators and servicers, and a requirement that they show a reasonable net tangible benefit to a borrower when refinancing.

We also created a requirement for servicers regulated by Maryland to begin reporting their loss mitigation activities to the Commissioner. Maryland was the second state to require this information, which allows us to understand the number and nature of loan modifications. Our data has taught us some critical lessons about servicers.

Enforcement

In an effort to help homeowners who were exploited or defrauded by industry professionals during the housing boom, DLLR has stepped up its investigative and enforcement efforts. In 2007, Governor O'Malley authorized 4 new investigators and examiners for DLLR's enforcement and compliance units in order to increase the Department's capacity to crack down on fraud and bad practices.

The increased capacity, combined with a greater focus on holding licensees accountable for bad practices, has led to an increase in enforcement actions, including subpoenas, cease and desist orders, other disciplinary actions and new cases.

In the summer of 2008, eight individuals were indicted in a foreclosure rescue scam conspiracy that was the largest case of mortgage fraud in Maryland history. DLLR's enforcement unit investigated the case of the Metropolitan Money Store, based here in Prince George's County, which involved at least 100 homeowners being robbed of more than $10 million in equity. One of the new laws passed this year, which reformed the Protection of Homeowners in Foreclosure Act, prohibits the fraudulent conduct that was the centerpiece of the conspiracy in the Metropolitan Money Store case.

The new criminal mortgage fraud statute provides prosecutors with critical tools to punish fraudulent activity. The statute also provides homeowners with a private right of action, which expands the enforcement opportunities under the law.

Outreach

The Homeownership Preservation Task Force also led to an extensive outreach effort to help more homeowners facing foreclosure now. The State created the HOPE hotline to allow homeowners to access assistance from housing counselors. The hotline has taken upward of 20,000 calls from homeowners and helped thousands of them keep their homes. Working with the judiciary, we elicited a call for pro bono attorneys to assist homeowners facing foreclosure, and more than 700 have been enlisted in the effort. Homeowners can access their legal expertise through the hotline. We launched a multi-media outreach campaign to advertise the hotline and the assistance available by advising homeowners to seek help immediately.

As a result of the new foreclosure process law, the Commissioner now receives a copy of the Notice of Intent to Foreclose that a lender must send to a borrower at least 45 days prior to filing a foreclosure action. The Commissioner's office sends each of these borrowers information about how to seek help and warnings about foreclosure-related scams. To date, we have sent more than 80,000 such information packets to homeowners.

Servicer Agreements

Early in 2008, responding to reports that homeowners in distress were having difficulty even getting their servicers on the phone, let alone accessing meaningful loss mitigation services, Governor O'Malley announced plans to meet with servicers to address this problem. Representatives from major loan servicing companies, as well as Fannie Mae and Freddie Mac, met with the Governor and Administration officials in February and March. From those meetings, a framework for a streamlined and transparent loss mitigation process was developed. Intensive discussions with more than a dozen loan servicing companies to negotiate the details of the framework ensued. Six major servicers that represent nearly 25 percent of the state's mortgage market signed agreements with Maryland. Citi, HSBC, Ocwen, Litton, GMAC ResCap and AmeriNational Community Servicing, Inc. pledged to abide by the following five-point framework for loss mitigation:

I. Process—Maryland's 5/10/60 Timeline for Loss Mitigation
   5 days: Acknowledgement of Receipt of Loss Mitigation Package
   10 days: Confirmation of Completeness of Package
   60 days: Decision Made on Loss Mitigation and cooling off period that halts a foreclosure action and the accrual of fees until a decision is reached

II. Team Maryland – Servicers designate key contacts for Maryland homeowners

III. Technology – Commitment to explore and utilize technology to expedite the process.

IV. Modification Guidelines – Sharing acceptable guidelines and parameters for loan modifications

V. Marketing and Outreach – Participating in the outreach efforts to reach homeowners

These servicers have worked with our foreclosure prevention network to provide information about their guidelines and resolve cases. Our work with these servicers is ongoing and we are expanding our discussions to improve the process and results of short sales.

Modification Data: What We've Learned

Maryland has been at the forefront of data collection. Our reporting requirement for servicers enacted last year has enabled us to collect data on roughly 380,000 Maryland mortgage loans. This data has provided a window into modification activity and has informed the other elements of our strategy.

For example, while modification volumes began to increase in early 2008, we became increasingly concerned through our examinations, complaints from borrowers, discussions with servicers and other sources, that these modifications were actually providing astonishingly little relief.

As a result, we began to collect data not only on modification activity, but on the impact of modifications on monthly payment. We have collected that data since August, and we believe we are the only government entity at any level gathering this information.

The results have been startling – in August and September, roughly 60 percent of the modifications reported resulted in the same or an even higher monthly payment. More recently, this data has improved somewhat. The percentage of borrowers receiving a modification where their payment remained the same or increased fell to 52 percent in October and 43 percent in November.

Meanwhile, Countrywide, our largest reporting servicer, continues to report each month that 75 percent or more of its modifications do NOT lower the borrower's monthly payment.

Through our negotiations with servicers, we learned that in the vast majority of cases, loan servicers have substantial discretion to modify the terms and conditions and loans, including the ability to reduce principal owed. However, while all servicers claim to want to avoid foreclosures, the data suggests that efforts to do so have been more talk than action. They have lacked the will to exercise their authority and provide homeowners with sustainable modifications, including principal reductions. Recently, there has been some improvement and we look forward to more gains with the President's new initiative.

Data Limitations and Need for Federal Cooperation

Your invitation also suggested that I comment on the level of cooperation that we have received at the federal level. As I consider these data collection efforts, I must convey that our experience has been less than productive and, frankly, at times frustrating. Understanding the limitations of our reach as a State regulatory agency, and realizing that data about monthly payment impact was critical, we worked with Congressman John Sarbanes in July 2008 to craft a request to the OCC and OTS to collect similar data.

While our data is limited because our regulatory authority is limited, federal regulators have access to loan level data on millions of loans nationwide and are well positioned to capture critical data including payment impact data. As Congressman Sarbanes wrote in his letter, "as the volume of modifications continues to grow, an accurate picture of the nature of these modifications becomes more critical by the day." Congressman Sarbanes received a letter from both the OCC and OTS on September 3, 2008 denying his request.

Since that time, the OCC and OTS released new data showing the number of redefaults for loans modified earlier in 2008. They expressed shock at the high percentage of borrowers who redefaulted – about 50 percent – and indicated that the results raised questions about the efficacy of modifications. While they may be shocked, we were not.

If most distressed borrowers don't receive modifications that lower monthly payments, it should come as no surprise when those same borrowers default again.

This effort highlights the importance of asking the right questions. Our public debate on modifications should be based on the right data – and it hasn't been. Our state was fortunate to have statutory licensing authority to gather payment data, but most other states were not so lucky. With the servicing industry continuing to consolidate in federally chartered banks and holding companies, we will only be more dependent on Federal oversight in the future. As we regulatory restructuring is considered, our experience is instructive. It highlights the critical role of state regulatory oversight. States are in a key position to identify and respond to emerging market trends and developments, such as the need for monthly payment data.

As they move forward with their data collection, I would offer an additional suggestion. We know that minority homeowners were disproportionately impacted by the subprime lending spree that led to this crisis. While 18 percent of white homeowners were given subprime loans, 54 percent of African American homeowners and 47 percent of Hispanic homeowners received subprime loans. In Maryland, those communities with large minority populations, including Prince George's Counties, are the ones most impacted by the foreclosure crisis. As they begin collecting meaningful data about the number and nature of loan modifications, federal regulators should also require data on the race and ethnicity of borrowers receiving the modifications to ensure there are no violations of the Fair Housing Act.

I understand that servicers may raise concerns about whether they can report such data. I would suggest, however, that this is precisely the type of data collection contemplated by the Reg B exemptions and it is specifically analogous to the HMDA reporting that is done at origination. HMDA data has provided us with exceedingly useful information to gauge lending practices. That same data is no less necessary in the context of unprecedented large-scale loan modification programs that involve federal dollars. This data should be among the requirements we make of servicers and lenders in exchange for their voluntary participation in these programs. This data should be part of the core accountability we require.

Consumer Protection

This crisis shines a light on the need for consumer protection and every phase of the lending and homeownership process, and for regulatory reform at the federal level.

As noted above, Maryland licenses and oversees servicers, which has enabled us to take certain steps, including imposing a duty of care on servicers, conducting examinations and collecting data. However, the impact of these steps is muted daily by Federal pre-emption, and the problem is getting worse every day. As servicing entities continue to consolidate under Federally-preempted entities, our regulatory authority shrinks. With the acquisition of Countrywide by Bank of America, we now license servicers handling less than 20 percent of Maryland loans. Other licensees are owned by investment banks which have now become bank holding companies. Our leverage in this area is weak and weakening.

This wouldn't be so discouraging if our Federal counterparts had been up to the regulatory task in recent years. While the FDIC has shown creativity and leadership, the OCC and OTS, which regulate the servicers that dominate the mortgage market, have been behind every step of the way.

A lack of oversight by federal regulatory agencies, along with a regulatory focus on the banker rather than the lender got us into this mess. There is a need for real reform at the federal level to ensure we don't repeat history, and the reforms must be consumer focused.

I would also caution federal regulators as they move forward with the President's plan to modify loans to stay alert for the growing phalanx of "loss mitigation specialists." As in the case of foreclosure rescue scams over the last several years, scam artists are eager to take advantage of homeowners trying to modify their loans, and they will be on the prowl for vulnerable homeowners who are eligible for assistance through the new federal program.

Already we are seeing the emergence of this burgeoning industry which charges homeowners up front fees and claims it will help them access modifications in return. Typically this ends in nothing but wasted money and, worse, wasted time. As a result of our new laws in Maryland, if a homeowner is more than 60 days in default anyone offering assistance, including a "loss mitigation specialist", is prohibited from collecting upfront fees for these services.

While we have recovered thousands of dollars of fees paid by borrowers in our state, we can never recover the time that could have been spent accessing a real modification. Similarly, credit repair operations are on the rise during these troubled times. In Maryland these companies are prohibited from charging upfront fees. These businesses wind up taking money that could have been used to reduce the consumer's debt and leave the consumer in the same poor credit shape they were in before. We are working hard to get the word out that consumers shouldn't pay upfront fees for these services and, more importantly, it is help they can get for free or do themselves.

In many ways, these are state enforcement issues, best overseen and addressed at the state level. However, I would urge that federal efforts be tailored to support these efforts, particularly as the President's program ramps up. Thought could be given to capping third party fees in modifications, or to banning them altogether. At a minimum, however, simple disclosure should be required for these modifications, including pre-and post-modification payment, balance and other key terms. It should also include the name, address and amounts involved of any third party fees that have or will be paid. All of these data items could be easily captured by HUD for oversight, and our state could then access this data, review the third party information and move forward with oversight armed with accurate and timely information

A State-Federal Partnership

So far, federal programs have been of very modest help to our foreclosure related efforts.

While the counseling support provided through Neighborworks has been extremely helpful in providing assistance to homeowners and working with servicers, other resources have been limited. State resources financial assistance programs to address the foreclosure crisis have been limited, and the lack of uptake in the federal programs, such as Hope For Homeowners, is well documented.

More structural approaches through HOPE Now or Fannie Mae and Freddie Mac have also provided only limited relief. These entities have thus far been unable to create a standardized modification process and, while their efforts have resulted in a large number of modified loans, the modifications have not been sustainable and have resulted in high rates of redefault.

President Obama's new housing initiative seeks to rectify this balance and to join the battle with substantial federal resources. We welcome the assistance. The standardization that will result will have lasting impact. After billions of dollars of our federal response to this housing-driven crisis have been devoted to the security holder, focusing some resources to the borrower is clearly warranted and overdue.

Going forward, it is critical that the federal government work in partnership with the states. Our efforts have been aggressive ongoing, but our reach is limited. At the same time, we would encourage the federal government to avoid taking any steps that would pre-empt stronger protections at the state level.

Lessons Learned

Our efforts in Maryland have provided us with a number of insights into what is needed going forward to address the national foreclosure crisis. We hope you will consider these lessons in your work, and that they will be used to inform the comprehensive federal efforts:

- In the majority of cases, servicers have substantial discretion to modify the terms and conditions of mortgage loans. This includes the ability to reduce principal owed. Until now, they have not exercised this ability to the extent necessary to make a meaningful dent in the number of homeowners facing foreclosure.
- Collecting timely data is critical to ensuring we understand how many people are accessing help and to informing our efforts to combat foreclosures. More importantly, the type of data we collect is critical – if we are not collecting the right data, we cannot understand how many people are or are not receiving real help. We must track detailed data at the federal level about the number and nature of loan modifications, including principal reductions.

- We should also collect data regarding the race and ethnicity of borrowers receiving loan modifications. We know minority homeowners disproportionately received subprime loans in the years leading up to this crisis. We must ensure discrimination is not keeping them from receiving real help now. We understand that there
- We must refocus regulatory efforts on consumer protection, and learn from the mistakes of the past. We should revamp those regulatory agencies that for too long have been bank oriented, and ensure that going forward they remain consumer focused.
- States do not have the resources nor the reach to address this crisis in a vacuum. In order to effectively combat the foreclosure crisis, the federal and state governments must work together.

Thank you for allowing me to address you today regarding our efforts and the gaps that must be filled by federal efforts. I am optimistic about President Obama's plan going forward, and I and other Maryland officials look forward to working with his administration in partnership in the future.

Ms. WARREN. Oh, no. Thank you, Secretary Perez.

[Applause.]

Ms. WARREN. We appreciate it. And, finally, Mr. Robinson.

STATEMENT OF PHILLIP ROBINSON, EXECUTIVE DIRECTOR, CIVIL JUSTICE, INC.

Mr. ROBINSON. Madam Chair, Members of the Panel, thank you for inviting me today.

My name is Phillip Robinson. I'm the Executive Director of Civil Justice, Inc., and we're a Maryland nonprofit legal services agency, and my charge today primarily is to describe to you the foreclosure prevention pro bono project that we're co-leading with the Pro Bono Resource Center of Maryland.

I provided written testimony. I'm not going to read that. It's got a lot of detail in there and background for you.

You came to Maryland to hear what we're doing because, frankly, when I talk to other consumer advocates around the country, we are way ahead of the game. We have a very sophisticated multipronged approach to helping homeowners and it starts at the very top with Governor O'Malley and Secretary Skinner and Perez who are giving an extraordinary amount of time and effort and then down to the lower level that you've heard from the housing counseling agencies and from homeowners.

You know, just by way of example, Secretary Perez isn't just here to testify, he will actually go to the victims' houses and meet with them for five hours, to interview and find out their story. He's done it. I know he's done it. They were my clients. He himself has done that. Secretary Skinner has been out doing workshops and speaking and doing public relations and I don't know what kind of grief he gets when he gets home, but I'm sure it's as much as I get.

The Foreclosure Prevention Pro Bono Project is the largest in the United States that I am aware of. There are other similar projects that have been launched in New York, in New Jersey and other states, but the number of attorneys participating, the level of services that are being provided are significantly less.

When we started this just last summer, we had no idea where we'd be today. The market has changed completely. The types of services that need to be provided to homeowners today versus last July are different.

We've recruited over 700 attorneys who have volunteered to provide time and resources to help homeowners and my testimony outlines the kinds of things that we're asking them to do.

First, we're asking them to provide brief advice and counsel. The Number 1 thing that homeowners say to us when they get to any one of the different vehicles to the Maryland system is they don't know what their roadmap is. They don't know what their options are. They're calling their servicers and can't get an answer. No one is answering the phones. No one is responding to them.

So we started a series of workshops where we would bring pro bono attorneys and housing counselors and homeowners could come and they could get free advice. The basic thing is we're giving them a roadmap. This is where you are in the process. We hear about your individualized situation and every situation's a little different and we try to give them a roadmap of where we go.

Now, these events have been quite successful. Just in the last six months, we've seen over 500 homeowners at these events. Congresswoman Edwards mentioned earlier, Congressman Van Hollen, Congressman Cummings, and Majority Leader Hoyer, they've all sponsored events and essentially used the pulpit of their positions to get the servicers and homeowners and pro bono lawyers and non-profit-qualified housing counselors to come and provide assistance and get these homeowners some help and try to mitigate their damages.

We're continuing to do more of those events and for homeowners who are here today, there's a list in the back of upcoming events that are happening. They're free. They cost nothing.

We also are asking pro bono attorneys to do direct representation. There are not enough housing counselors in the United States or in Maryland to meet the need. You heard Ms. McDougal talk about the caseload just at her one agency, how it's tripled in this area just in a couple years.

The state and our project believe that we need to use the pro bono attorneys to supplement what's needed at the counseling agencies. In effect, the pro bono attorneys are acting as extensions for the counselors. So they will provide direct representation in attempting to negotiate loan modifications and writing letters, making phone calls to those servicers.

The second aspect of what they will do is they will represent homeowners in court and despite what I think is the ridiculous and completely unnecessary restriction on the federal money that was given last year to provide legal services to homeowners in foreclosure, we are still able to find lawyers who will do this without that need of money, but that's a completely unnecessary restriction and it's an impediment.

In most cases, if a lawyer is helping a homeowner who is on the foreclosure train and the case has been filed, that can be resolved with loss mitigation. There is no need for adversarial litigation, but it's not clear why that restriction was in there, it's not necessary, and I know in over half the states that are non-judicial foreclosure states or—I'm sorry—half the states that are judicial foreclosure states, that money could not be used. That's my expectation and it will come back to Congress and you'll be wondering, Congress will be wondering what happened.

The third aspect of what we're asking the pro bono attorneys to do and that they are doing is that the long-term solution here is to affiliate them with housing counseling agencies. There are approximately 30 or so qualified housing counseling agencies that the State of Maryland is supporting. We are recruiting attorneys to volunteer to become an extension on a regular basis.

In my written testimony you have what is a draft job description for that volunteer attorney and details the kind of work that they will do, but the long-term solution to this for a sustainable solution is to have those pro bono attorneys in our vision affiliated with the agencies and working with them on a regular weekly basis. The St. Ambrose model times 30. The St. Ambrose is one of the only agencies in the state that has its own inhouse attorneys.

I provided a series of recommendations that you can see at the end of my testimony. Some of those you've already heard. Let me just echo what Secretary Perez emphasized. There is absolutely no reason to have the kind of restrictions that were passed on the federal money that came to legal service entities. Future federal money to support local and state programs like ours do not need to put the restrictions that were put in, [1] by Congress that you can't do litigation and use this money for litigation purposes and [2] NeighborWorks put in its own restriction and said before the lawyers can provide assistance, the homeowner must get housing counseling first.

Now, our model is to do it simultaneously and I would like to encourage any future bills and efforts in this manner to do that. That restriction wasn't necessary and it doesn't fit the problem of us trying to get rid of the caseloads for the housing counseling agencies.

I'm happy to answer any questions.

[The prepared statement of Mr. Robinson follows:]

CIVIL JUSTICE
A Public Interest Legal Association for Solo & Small Firm Attorneys

Civil Justice Inc.

520 W. Fayette Street, Suite 410
Baltimore MD 21201
Phone (410) 706-0174
Fax (410) 706-3196
Web www.civiljusticenetwork.org
Email cjn@civiljusticenetwork.org

Phillip R Robinson
Attorney
Executive Director

Diane Cipollone
Attorney & Director
Sustainable Homeownership Project

WRITTEN TESTIMONY BEFORE THE CONGRESSIONAL OVERSIGHT PANEL

"Coping with the Foreclosure Crisis: State and Local Efforts to Combat Foreclosures in Prince George's County, Maryland"

Prince George's County Community College
Friday, February 27, 2009
Largo, MD

by Phillip Robinson, Executive Director
Civil Justice, Inc.

INTRODUCTION

Madam Chair and members of the Congressional Oversight Panel, thank you for the opportunity to speak before you today at this important hearing. My name is Phillip Robinson and I presently serve as Executive Director of Civil Justice Inc., a Maryland non-profit legal services agency that is co-leading Maryland's Foreclosure Prevention Pro Bono Project. There is no other issue more important to solving the current economic crisis than finding sustainable solutions for homeowners at risk or facing foreclosure. Not every homeowner can be helped; however, as Maryland has effectively demonstrated, when all the key stakeholders participate in a multi-pronged approach to the problem, we can significantly reduce the negative consequences of foreclosure for families, neighborhoods, local and state governments, and note holders.

BACKGROUND ON CIVIL JUSTICE INC.

Founded over ten years ago, Civil Justice Inc. (CJ) works to increase the delivery of legal services to clients of low and moderate income through a network of solo, small firm and community based lawyers who share a common commitment to increasing access to justice through traditional and non-traditional means. A core part of this access to justice program is carried out through direct representation to homeowners by direct and class representation in the broad area of homeownership. In this regard CJ has successfully worked to train, co-counsel, and coach its network attorneys and others to help homeowners in the area of predatory real estate practices so that the mission of the organization may be carried out exponentially.

As a result of its multi-pronged efforts to (i) support private, public interest attorneys do well and good at the same time and (ii) increase access to justice, CJ has established a track record of impact and recognition in the community. For example:

- CJ has co-counseled on several consumer class action lawsuits that have resulted in more that 100% of millions of dollars in illegal finance, broker fees, and/or illegal kickbacks being returned to the consumers as well as prospective injunctive relief against the defendants to prevent them from continuing the same practices.[1]

---

[1] *See, e.g., Greer v. Crown Title Corp.*, Cir. Ct. Balt. City, Case No. 24-C-02001227; *Naughten v. Millennium Escrow & Title*, Civil Action No. 02-cv-2078 (U.S. Dist. Ct. Md.); *Gray v. Fountainhead Title*, Civil Action No. 03-cv-01675 (U.S. Dist. Ct. Md.); *Keneipp v. Fountainhead Title Group Corp.*, Civil Action No. 03-cv-02813 (U.S. Dist. Ct. Md.); *Johnson v. Fountainhead Title Group Corp.*, Civil Action No. 03-cv-03106 (U.S. Dist. Ct. Md.);

- CJ's statewide membership exceeds more than 100 private, public interest attorneys committed to the overall mission of the organization in some key way.
- CJ is recognized by the Maryland community as the public interest "expert" in predatory relate practices and foreclosure defense issues in Maryland.[2]

CJ and its leadership are also award winners. For example, as the 2002 recipient of the Louis M. Brown Award for Legal Access, the American Bar Association's Standing Committee on the Delivery of Legal Services recognized CJ for filling in the gap of unmet legal needs of the middle class and those of moderate incomes with lawyers who provide affordable legal information, services and representation. Last year the Maryland Consumer Rights Coalition also recognized me as the Denis J. Murphy Consumer Advocate of the Year for CJ's work and efforts to reform Maryland's foreclosure process.

CIVIL JUSTICE INC.'S SUSTAINABLE PROJECT

The overall goal of the CJ's Sustainable Homeownership Project (SHP) is to promote the legal services and remedies available to prevent foreclosures

Robinson v. Fountainhead Title Group Corp., 447 F. Supp. 2d 478 (D. Md. 2006); *Benway v. Res. Real Estate Servs.*, Civil Action No. 05-CV-3250 (U.S. Dist. Ct. Md.); *Capitol Mortgage Bankers, Inc. v. Cuomo*, 222 F.3d 151 (C.A.4 2000) (on behalf of *Amici Curiae*); and *Wells Fargo Home Mortgage Inc. v.* Neal, 398 Md. 705 Md., (2007) (on behalf of *Amici Curiae*); and *Atta Poku v. Friedman*, 403 Md. 47 (2008) (on behalf of *Amici Curiae*).

[2] *See* Surkiewicz, Joe, "Of Service: How can a lawyer help those facing foreclosure?" *Daily Record*, August 4, 2008; Kearney, Brendan, "Waldorf Retiree Gets Verdict on Subprime Loan," *The Daily Record*, July 21, 2008; Smith Hopkins, Jamie, "A Cry to help Save Homes in Maryland: Top Judge Seeks to Stop Foreclosures," *Baltimore Sun*, July 8, 2008 (Page D.1); Madigan, Nick, "8 Accused of Loan Scheme," *Baltimore Sun*, June 13, 2008 (Page A.1); Trejos, Nancy, "Mortgage Survivors; On the Brink of Foreclosure, They Got Their Loans Changed – but it Wasn't Easy," Washington Post, May 4, 2008 (Page F.1); Smith Hopkins, Jamie, "Waging the Fight for Homeowners," *Baltimore Sun*, Feb. 29, 2008 (Page D.1); Hancock, Jay, "Seizing of Homes Too easy in MD," *Baltimore Sun*, Jan. 11, 2008 (Page D.1); Wiggins, Ovetta, "Foreclosure Task Force Proposes Remedies: Strict Lending Laws Sought," *Washington Post*, Nov. 17, 2007 (Page B. 2).

of suspect transactions through a series of statewide partnerships designed to make a positive, short- and long-term impact for homeowners at risk of losing their homes.[3] While reaching to obtain this goal, the Project has several primary objectives including:

1. The Project provides **indirect legal counseling to Maryland homeowners, through a network of statewide housing counseling agencies**, facing foreclosure in order to help these families to retain and stabilize their mortgages and decrease the negative impacts of foreclosures on consumers and general communities. CJ continues to expand its outreach and partnership efforts to work together with non-profit housing counseling agencies statewide to help provide default and delinquency counseling to homeowners in trouble. Since only one housing counseling agency in Maryland actually has in-house attorneys with experience, the remaining thirty or more counseling agencies would greatly benefit from the opportunity to work with qualified attorneys at CJ as well as the pro- and low-bono attorneys trained and supported by CJ throughout the project.

2. In partnership with the Pro-Bono Resource Center of Maryland (PBRC), the Project has **established a targeted pro- and low-bono legal service program** designed to preserve housing and prevent foreclosure. This legal service program included training for attorneys wishing to do this

[3] CJ does not limit its services to certain demographic groups or income levels as is the case with every other Maryland legal service provider providing the services contemplated herein. In the area of foreclosure prevention this is important since so many of the new borrowers facing foreclosure are middle-income and employed but cannot afford private market rate attorneys who require substantial upfront fee retainers.

kind of work for homeowners facing foreclosure throughout the State.[4] Few attorneys in Maryland even contemplate foreclosure defense work, unless in a bankruptcy case, yet thanks in part to CJ, the Court of Appeals has recently created new defenses that can be raised for homeowners.[5] PBRC will work together with CJ on non-litigation related activities and volunteer coordination while CJ will provide the substantive, legal support to participating attorneys on the matters in which they are raising legal defenses on behalf of homeowners at risk of foreclosure.

3. The Project will co-counsel on targeted foreclosure related **"Impact" Litigation** designed to change fundamental flaws in Maryland's limited judicial foreclosure process.[6] CJ will build upon is track record of successful public interest litigation to pursue cutting edge impact cases that other legal service providers are prohibited from pursuing.[7] CJ will also pursue targeted appellate cases, as counsel and/or *amici*, to work to change Maryland's foreclosure process through the Courts. Given that many of the lenders and secondary market investors are going out of

[4] The project has already completed more than eight trainings around the state attended by 800 attorneys (700 of whom have volunteered to provide pro bono hours). Additional more substantial trainings are being planned for the next six months. Topics of these additional trainings will involve detailed federal and state law defenses and advanced loss mitigation strategies and techniques.

[5] The Court of Appeals of Maryland, in a case in which CJ served as co-counsel and Amici, that, "under principles of equity, a mortgagee's commencement of a foreclosure proceeding on a FHA-insured mortgage, without first adhering to the mandatory HUD loss mitigation regulations, may invalidate the mortgagee's declaration of default." *Wells Fargo v. Neal*, 2007 WL 738444 (Md. 2007).

[6] Maryland homeowners facing foreclosure basically have two opportunities to challenge the foreclosure. A mortgagor may challenge a foreclosure by obtaining a pre-sale stay pursuant to Maryland Rule 14-209 and filing post-sale exceptions to ratification of the sale under Maryland Rule 14-305(d). ALEXANDER GORDON, IV, GORDON ON MARYLAND FORECLOSURES § 21.1 (4^{th} ed. 2004).

[7] CJ is the only Maryland legal service provider with experience in foreclosures eligible and approved to initiate class action litigation. LSC and MLSC funds to other legal service providers expressly prohibit or severely restricted from doing so.

business at a rate of several per week, there can be no question that the new mortgage origination system that emerges from the current crisis will not be like that we have experienced in the last two decades. However, those who appear unaffected thus far are third parties who have facilitated the meltdown and made excessive profits at the expense of homeowners stuck in unaffordable loans.

4. The Project **partners with federal, state, and local efforts** to help homeowners at risk of facing foreclosure from exploding mortgages. CJ actively assists federal, state and community and organizational efforts to help homeowners facing foreclosure. Such efforts will keep the Project in the forefront of emerging issues and trends and ensure that the key policy makers continue to recognize CJ as the lead organization in Maryland protecting the rights of homeowners facing the risk of foreclosure.[8]

FORECLOSURE PREVENTION PRO BONO PROJECT

In partnership with the Pro-Bono Resource Center of Maryland (PBRC), the CJ is co-leading Maryland's Foreclosure Prevention Pro Bono Project. Launched last July, the project has recruited over 700 Maryland attorneys who have volunteered to help the tsunami of homeowners at-risk or in foreclosure foreclosures. The need for these volunteers is great because the counseling agencies have been flooded with calls for help and cannot reasonable meet the demand for help. With this reality in mind, the project has identified three distinct

[8] CJ was the only non-public legal service provider asked to speak from the Maryland Senate's Judiciary Committee on foreclosure issues in a special briefing in September 2007 and again on a joint committee panel of the House of Delegates in October 2007.

roles for the participating attorneys and is implementing these efforts on a daily basis including:

1. **Brief Advice and Counsel** – Attorneys participate at community events and meet with homeowners to access the homeowner's situation and attempt to provide the homeowner with a road map for their situation. Getting correct information and answers to their basic questions is the first step for any homeowner with a sustainable solution. These community events are necessary, well received, and effective and involve all contingencies and ethnic and social groups.

    - Majority Leader Hoyer, Congressman Van Hollen, Congresswoman Edwards, Congressman Cummings, and state and local officials have held public events which have attracted thousands of homeowners at risk. The project brings as many attorneys as needed to each event and over the course of a full-day will provide whatever length of time is needed to the homeowner to help them understand their road map and plan.

2. **Direct Representation** – Attorneys helping in this capacity provide direct representation to homeowners in: (i) negotiating with their note owner a sustainable modification or solution to the homeowner's individual situation; and/or (ii) representing homeowners in court when the foreclosure action has been initiated.

    - The vast majority of the work being performed under this category is loss mitigation efforts appropriate and suitable to the homeowner's situation and does not involve litigation.
    - However, for the attorney to be able to effectively represent the homeowner's interests, she must examine the loan and determine what if any legal claims the homeowner has. This determination can often help the homeowner and note holder come to a sustainable solution rather than proceed to litigation.
    - Once the homeowner has a lawyer involved, most servicers react differently and more quickly to the homeowner's loan modification proposal.

3. **Of Counsel** – As the final part of the project, we are asking attorneys to "affiliate" with the qualified housing counseling agencies in the state for the long-term. By doing this we hope to increase the capacity of the agencies to help more homeowners for the long-term since it is not anticipated that the crisis will subside for some time. Attorneys participating in this role will be volunteering for the long-term and will perform many of the same functions above except in our project (and the State's overall plan) this function is intended as the long-term solution for capacity and services to homeowners at risk (see Exhibit 1 for more details). Rather than create a whole new system, we are seeking merely to expand the capacity of the qualified housing counseling agencies to do more with volunteer attorneys.

Since the project launched in July, the landscape has changed dramatically in the marketplace. With the bank failures and FDIC takeovers, we constantly have to inform and train the participating attorneys as to new strategies, tips, and procedures. The project uses email to carry-out daily updates and is also conducting trainings around timely topics. Just this week 50 attorneys received advance loss mitigation tips session. This training and collaboration is in fact the "hook" by which we have recruited so many attorneys to participate and offer meaningful advice and counsel to homeowners at risk—and especially to homeowners who have sustainable solutions.

<u>MARYLAND'S NEW FIDUCIARY DUTY UPON LOAN SERVICERS AND OTHER STATE ACTION DIRECTED AT SERVICERS AND LENDERS</u>

Maryland's efforts in this area are due to Governor O'Malley and Secretary Perez. Each of them have invested their personal time and resources to the effort when they very easily could have said 'it's a federal problem' and looked elsewhere. However, because of their commitment, the lending community came to the table and agreed (but did not prefer) to reasonable common sense solutions that the State could take to help homeowners.

For example, Maryland is one of very few States which licenses and regulates mortgage loan servicers. As of last summer, state regulated servicers were required pursuant to COMAR regulation 09.03.06 to report data to the State concerning their foreclosure and loss mitigation efforts. From this monthly report, it will be possible to track the efforts of the regulated servicers for the first time ever in Maryland or perhaps even nationally. Recently, the Commissioner of Financial Regulation has also adopted regulations to require servicers to have a minimum duty of care to:

(a) promptly provide borrowers with an accurate accounting of the debt owed when asked to do so;
(b) make borrowers in default aware of the loss mitigation options offered by the licensee;
(c) promptly respond and answer borrower inquires regarding mortgage loans; and
(d) pursue loss mitigation when possible.

COMAR 09.03.06.20(A)(3).

It is too early to tell if these regulations have made a difference for Maryland homeowners. However, we will soon have concrete data to substantiate our view and experience (discussed below). In addition, homeowners will have a new defense to foreclosure when they do everything they are asked to do, and the servicer or lender does nothing and the foreclosure train is moving faster and faster.

Mortgage Fraud

For three years, CJ has been observing and actively representing homeowners involved in various mortgage and foreclosure rescue frauds. While much of these cases and matters are beyond the direct scope of the panel's interests today, the discovery and evidence we have learned in these cases is important to understanding some of the problems you intend to address in your reports to Congress.

In the course of the cases we have performed, I have taken or participated in the depositions of no less than five mortgage-backed securities (MBS) in the last year. This discovery has demonstrated the following universal faults in the current mortgage system most affected by the crisis:

- No MBS ever looks at any of loan it purchases.
- The MBS solely relies upon the warranties and representations of the depositor (and/or originator) as to the bona fides of the loan and loan product.
- The MBS refuses, in all but one instance, to tender back the bad loan to the depositor/originator.

While these conclusions come from fraudulent cases, they are examples of the frustrations faced by non-fraudulent homeowners when having to negotiate with a MBS through its servicer. They have to endue another layer of complexity to the process which often has competing interests that often prevents common sense loan modifications from being realized.

RECOMMENDATIONS

From my grassroots, frontline perspective, I can offer the panel the following recommendations:

1. More support for housing counselors and legal service programs in this area can make a positive difference for homeowners. Programs, like Maryland's Foreclosure Prevention Pro Bono Project, which are easily replicated, are a relatively low-cost way for the government to ramp up a quick support network to support homeowners with sustainable solutions. This support however should not have restrictions which are inherently conflicting with the purpose of helping homeowners.
2. Note holders receiving TARP assistance directly or indirectly, should be required to offer meaningful loan modification analysis before initiating foreclosure process. In addition, once a homeowner submits a bona fide modification proposal, directly or indirectly, note holders should be required to stop, stay, or enjoin any foreclosure action that has already initiated.
3. Federal legislation should follow Maryland's lead and make it illegal for a foreclosure consultant providing "loss mitigation" services from receiving any funds for services until she has performed bona fide services.
4. Note holders receiving TARP funds should be required not only to offer sustainable loan modifications to homeowners in default but also to homeowner for whom default is reasonably foreseeable.
5. All servicers, whether federal or state, should have a fiduciary duty to homeowners like those regulations adopted here in Maryland. The

splintered regulation only creates problems rather than solves them and the federal government must increase its standards and enforcement. Certainly any lender receiving TARP funds should agree to a fiduciary duty like Maryland's otherwise the taxpayer's investment will not receive the attention that was intended.

CONCLUSION

Thank you for the opportunity to testify today and please do not hesitate to let me know if I can be of any further help to your efforts.

Respectfully Submitted,

Phillip Robinson

Exhibit 1

Civil Justice Inc.
Foreclosure Prevention Pro Bono Project
Of Counsel to Nonprofit Housing Counseling Agency
Draft Scope of Services

With ongoing consultation and mentoring from Civil Justice Inc., pro bono attorneys can provide some or all of the services listed below to serve as Of Counsel to one of the nonprofit housing counseling agencies that are currently supported by the State Department of Housing & Community Development under the Governor's HOPE Initiative:

1. Answer questions from the foreclosure prevention counselors.
2. Review loan transactions and assist counselors in reviewing such documents.
3. Review proposed loan modifications and forbearance agreements offered by the mortgage loan servicers.

   Recommend revisions to these proposed workouts as needed, particularly if the documents include waivers of claims and defenses.
4. Negotiate directly with the mortgage servicer or the servicer's in-house counsel if counseling efforts fail to avoid a referral to foreclosure.
5. Negotiate with the foreclosure attorneys (who rarely return calls to a homeowner or counselor) if an Order to Docket has been filed.
6. Take a specific case for direct representation.

Possible Parameters to be Established

Respond to counselor's emails and questions within two business days.

Be available for consultation on specific days/specific hours on a weekly/bi-weekly basis.

Meet in person with counselors at the agency on a bi-weekly/monthly basis.

Meet with homeowners if requested by counselors, for example, explain loan transaction to homeowner, explain recommendation to homeowner regarding proposed loan modification or other workout offered by mortgage servicer.

Be available during certain business hours and/or evenings if necessary to meet with homeowners.

Ms. WARREN. Thank you, Mr. Robinson. I appreciate it.

We're going to do a round of questions, a brief round of questions, and I'd like to start. I'd like to start with a question for Ms. Norton.

I was thinking about the numbers we started with, a 124 percent inflation adjusted run-up in housing prices, now housing values in free-fall, and so I wanted to just ask—I'll just ask it in a series and I think you can link the questions together.

How many people do you find or do you find that it's rare, I won't ask you for actual numbers, is it rare or is it a free-fall, that people come in who are in trouble on their mortgages who owe substantially more than the current market value of their homes?

And then a related question because I want you to be able to give a very good answer here is that for those people, even if there's, let's say, a 100 percent loan-to-value ratio financing available, can they save their homes using that and, if not, what tools do they need? Ms. Norton?

Ms. NORTON. Well, I'll let my colleague answer.

Ms. WARREN. I was just going to say whoever would like to answer on this, too. I'm glad to hear from both of you.

Ms. NORTON. And particularly, and you can speak to this in more detail than I can, for us for the most part, it depends on geography. So homeowners coming from different communities in different jurisdictions in the state typically reflect where that loan-to-value ratio is or how underwater they are at the point that they're seeking assistance.

There are communities in Baltimore City where property values are still at $75,000. There are, and then we get into the fraud conversation, two blocks away there are properties selling for $1.2 million in which comparables at the time of loan origination for the subject property of $75,000 were based on this other neighborhood. Baltimore is pretty representative of other urban areas in those dramatic changes.

So there are certainly—for the most part, it depends on geography, different parts of the state, that cause this inflated home value. The home values were rising at an artificial rate and also in areas where there was increased development.

Harford County, Maryland, is one where there was sprawling development. It was a Baltimore suburb in which the eight-bedroom, six-bath houses were built and just sort of popped up and I think in those communities that's where we are really seeing this, the up-ended values at the points that they come in for assistance and I know certainly this is an issue with Prince George's County which is why I was advocating for the use of principal reductions in loan modifications.

Do you want to jump in?

Ms. MCDOUGAL. Well, we are seeing some servicers who are willing to reduce principals and in some cases even interest that's still outstanding on the loan, but we're not seeing very many, and certainly in Prince George's County, we don't have very many clients who are not underwater in their homes which is very unfortunate because property taxes are going to continue to rise in the county.

So I would say that it's probably along the same vein that Anne did talk about with regard to the counties surrounding Baltimore.

Certainly when you look at the lack of affordable housing in the first place which led to the inflated prices as a result of the sprawling-out, then we really do see very high incidence of individuals that are underwater.

Ms. WARREN. This is very helpful, and I want to be careful to be disciplined about the time, as well.

I want to include now in this question Mr. Perez. I'm very struck by your comment that you can think of two reasons why there are no modifications or such a limited number of modifications, one the limitations imposed by law, in effect by the purchase and servicing agreements, and two, that they don't have the will.

The question I really want to put to you is we hear the examples that mortgage companies end up losing an enormous amount when these houses go into foreclosure. We've heard different estimates. Some estimates around $70,000 per foreclosure. Some say numbers suggest they get 40 percent of current market value when they take a house all the way through foreclosure.

Why are they so unwilling to modify?

Mr. PEREZ. I may be the wrong person to ask that.

Ms. WARREN. I think you're the right person to ask.

Mr. PEREZ. My own hypothesis is we have to go back to—we're talking about 2008, that's our data, and it was apparent to me that I think a lot of the servicers were understanding that there was going to be a new administration and were, frankly, waiting to see what the Federal Government was going to do and whether they were going to share the risk.

I mean, we saw in the 72-hour period, you know, Bear Stearns get bailed out. We saw, you know, all the other activity at a congressional level and my own sense was that they were taking a wait-and-see approach.

Well, the day of reckoning has come and it will be very interesting as we move forward to see what happens, but that—I mean, again, I don't have that—I haven't been in the board room, but I can simply say that, you know, our data—I used to hear that we've done more modifications than ever before and what we saw was, well, they're not meaningful modifications and that's really the touchstone and as we collect data, another important thing is to make sure we're collecting data on modifications disaggregated by race and ethnicity.

This is a problem that touches every community but it disproportionately touches communities of color. In Maryland, for instance, 54 percent of African Americans are in subprime loans, 47 percent of Latinos, 18 percent of non-minorities. We had problems of discrimination at the origination end. It is not a stretch to suggest that there are going to be potential fair housing issues at the modification level.

So as we move forward, I think we need to be mindful of that.

Ms. WARREN. Thank you, Mr. Perez. My time is up. So I'm going to have to yield to Mr. Silvers.

Mr. SILVERS. Mr. Robinson, did you want to answer?

Ms. WARREN. Mr. Robinson, let me ask you briefly.

Mr. ROBINSON. Sure. From our perspective, the biggest problem in getting meaningful modifications in the work that we directly do helping homeowners and indirectly through the housing counselors has to do with the securitized loans and when you add in the equation of the mortgage-backed security investor not giving the leeway and the easy way to the servicer, it adds an extra layer of complexity that's not needed, and we know from our fraud cases, because I've taken four or five depositions of mortgage-backed securities in the last year, they don't even know what's in their portfolio. If they had even looked at the paperwork, they would have seen the loan was toxic and unaffordable and in the fraud case, they would have seen it was fraudulent, but they still bought it and they're refusing to sell it back to who originated it to them.

Ms. WARREN. Thank you. Thank you, Mr. Robinson. Senator Sununu.

Senator SUNUNU. Ms. McDougal, you're obviously in a position where you're seeing a very wide variety of homeowners facing different kinds of challenges.

In the panel that we had previously, Richard Neiman pointed out they sort of brought together all of the many problems that we see in the system, but for any individual family there may one problem that's greater than all others.

What's the most common obstacle that you see for these homeowners? In other words, is there any particular thing, anything that gets repeated more often than any other that you would therefore identify as a real priority so that the first thing that you would want legislators, policymakers or regulators to try to address?

Ms. MCDOUGAL. I think that probably the most prevalent problem that we're seeing is the loss of income, where an individual's hours may have been cut from their job, they obtained the mortgage based on overtime hours that were reduced, there was a divorce or some kind of loss of income in the family that is very hard for the borrower to recover from.

We've had lenders or servicers tell us, well, maybe they can rent out a room, but I think that it really does go back to making sure that if there is some—and the fact that there's no equity in the home makes it a lot more challenging to try to refinance and so I would say probably the most important thing is the loss of income.

Senator SUNUNU. So the practices of the servicers and the lenders obviously complicate matters, make it more challenging to work things out, but more often than not, that's not what drove the problem in the first place. It's that you had a problem with income, you had a problem with the family's ability to pay and then the system wasn't really well-suited to deal with that and to help them through it.

Ms. MCDOUGAL. Almost. Because I don't want to back away from the responsibility of the servicers in this because I can say that in the two years that we've really seen the problem escalate, it did start with a very large portion of subprime loans where they were just not being negotiated at all for whatever reason on the servicing side.

Senator SUNUNU. Are there servicers or lenders for that matter, local perhaps or national, that have operated and worked better than others that we might look to as a model for performance?

Ms. MCDOUGAL. I think I'm going to yield to the Secretary because I know that Maryland does have a group——

Senator SUNUNU. I'll give the Secretary a chance. But I'm curious to know through your opinion, again because you're dealing with them on a personal level as the intermediary between the family that really needs the assistance and the lender, the servicer themselves.

Ms. MCDOUGAL. At one point it was the third-party servicers, the smaller servicers that were willing to negotiate. The larger ones, the Wells Fargo or some of the very large ones, lenders were not just at all and they would a lot of times say it's based on how the loan was written. Some loans are written so that the investor would not approve the loan modification. We weren't finding that out until later. We were just being given denials without any kind of explanation at all.

So I would say that the smaller servicers were more willing to work in the beginning and now—and then a lot of larger ones, especially larger lenders, started going out of business, so it just made it a little bit harder.

Senator SUNUNU. Secretary.

Mr. PEREZ. I actually agree with that. I mean, again extrapolating from our data, there's a wide disparity in meaningful modifications between, say, Ocwen and Litton and I'll note parenthetically when we met with Litton, who did we meet with? We met with Larry Litton and I think that was helpful to have, when we were negotiating that agreement, the principal at the table. He didn't have to turn around and say I have to run it up the flag pole. He was the top of the flag pole and their book of business are loans that are all very fraught with problems and so I think they saw the need for principal reductions and other more aggressive steps earlier.

Now, are they where we'd like them to be? No, they're not, but I give them credit and I think it's important to give credit where credit is due. I think they're moving in the right direction faster than some of the——

Senator SUNUNU. Now they're servicers and you mentioned Countrywide is servicing very large percentage of a couple of different classes, but my last question is about where these troubled mortgages came from in the first place, about the originators.

What portion of the subprime mortgages, for example, in the state—you regulate——

Ms. WARREN. Senator, you're out of time.

Senator SUNUNU. Well, it's important.

Ms. WARREN. They're all important.

Senator SUNUNU. You regulate the brokers and the state banks that initiated——

Mr. PEREZ. Correct.

Senator SUNUNU [continuing]. Many of these. So in Maryland, what percentage of the subprime mortgages were originated by entities that you regulate?

Mr. PEREZ. We regulate both state-chartered banks and non-bank originators. The subprime foreclosure problem, the origination problem that is your question is primarily a non-bank phenomenon.

Our state-chartered banks, with one or two exceptions, didn't get into this business. The main problem were non-bank originators which is why we've really clamped down on brokers and you look at—I mean, brokers——

Senator SUNUNU. But maybe for the record, could you just identify what percentage of the subprime mortgages in the state were originated by those?

Mr. PEREZ. Oh, by—well, we regulate about 70—actually, it's going down. As of a year ago, we regulated about 60 or 70 percent of the residential mortgage loan portfolio at origination. Then when Countrywide was taken over by Bank of America, they're a huge book of our business. So we're now under 50 percent.

Senator SUNUNU. But about 70 percent of those that were originated, initially originated——

Mr. PEREZ. Subject to state regulation because they were originated by brokers.

Senator SUNUNU. Thank you.

Ms. WARREN. Thank you, Senator. Mr. Silvers.

Mr. SILVERS. Secretary Perez, in your comments, you seem to be unhappy with Wells Fargo and Countrywide which, as you point out, is now a subsidiary or part of Bank of America.

Mr. PEREZ. Yes, sir, that would be a fair statement.

Mr. SILVERS. My question is going to be to the panel, but I want to make this observation. The TARP Program has provided Wells Fargo with $25 billion of taxpayer money and has provided Bank of America with $45 billion of taxpayer money and a guarantee against a $100 billion of Bank of America assets. That is roughly somewhere between $700 and $1,000 per household in the United States. People in this room on a proportionate basis have given those two banks in cash something probably on the order of $40,000.

Now I want to talk about sticks. What kinds of sticks should we be applying to those institutions? Let me one give you a menu. Stick one is the stick that Franklin Roosevelt applied, a mortgage moratorium, a mortgage foreclosure moratorium.

[Applause.]

Mr. SILVERS. Stick two—by the way, we could make this retroactive to this money. That power is vested in Congress in the Emergency Economic Stabilization Act or we could make it a condition of more money.

I read in the newspapers that somebody's coming for more money.

Stick two would be the bankruptcy provisions that are being discussed and that were mentioned by the Congress people that joined us earlier.

Stick three could be every bank-holding company is deeply intertwined with the Federal Government. We could start pulling threads. We could start denying them access to various benefits they receive from the public—from the government, ranging anywhere from access to the Federal Reserve Window, to access to deposit insurance, if they did not move forward with a structured mortgage mitigation program.

My question to you all is how much of a stick is necessary here?

Secretary Perez, I heard you describe these two institutions' behavior six months ago. It sounds like they haven't changed in the slightest, despite having received all this public money. How much of a stick is necessary?

Mr. PEREZ. Well, I don't think this voluntary compliance model has worked and we have the data to demonstrate that it is not going to lead to the large-scale reform that we need.

Bankruptcy reform, in my opinion, is the low-hanging fruit. I will put that aside. I think we've spoken about that enough.

A moratorium on foreclosure. We had a de facto moratorium as a result of the governor's bills last year for about six months, but if you don't address the underlying need to modify, a moratorium is just postponing the inevitable and so what we really need—when the market wanted it, we had what was called "automated underwriting" in the early '90s. We were able to get you into a home in four days.

Why don't we have automated modification that's automated and meaningful and why can't we tie some of this money to benchmarks and having said that, it's important to understand that not everybody should be eligible for a modification. For some people, regrettably, the solution is going to be a short sale and so I don't come in here with pie in the sky expectations. That is a reality in Maryland, but I think we need those benchmarks and we really need to tie the productivity in meaningful modifications and by that, I mean principal reductions.

To answer your question from before, people are upside down in this state. In Prince George's County, where I live in Montgomery County, Baltimore County, Baltimore City, all sorts of people who are upside down, interest rate freezes aren't going to work and so that to me would be some of the things I'd be looking at.

I'd also add a couple more sticks, which is the Fair Housing Act. The City of Baltimore has sued Wells Fargo for violations of the Fair Housing Act. We need to look at those civil rights tools. The FTC has jurisdiction over servicers that is very useful, and, you know, to me a more systemic reform that has to be on the table is when we're looking at the Treasury Department, as we look long-term here, the voices of consumers and the voices of civil rights protection need to move away from the kid table to the front table because I would observe that that is a systems problem that has been in place for way too long and if we don't address that systems problem at Treasury and at the Fed and tell them that, yes, Reg. B is not an impediment to collecting data in this area, you can do it, we need those voices internally, and so those are, I think, an amalgam of reforms that I think could help us move forward.

Professor WARREN. Thank you. Mr. Silvers, you're out of time. That was a good question.

Mr. Neiman.

Mr. NEIMAN. I just want thank you for highlighting the efforts at the state level, in progressive states like Maryland, like New York. But as we all know, states can only do so much.

These are policies and financial funding and incentives have to come at the national level, and that's why we also have to deal with issues around federal preemption.

Senator Sununu rightfully highlighted that many of these subprime mortgages were originated by non-depository institutions regulated at the state level, but it was the federal regulators that really thwarted the actions of states as far back as 2000 to bring actions against institutions, particularly the national banks, that participated in funding those non-depository institutions in securitizing.

So I agree, we have to address issues around federal preemption which contributed to the creation of the problem. Federal preemption is also inhibiting the solution. As you pointed out, the inability to collect data from institutions like Wells Fargo is totally unacceptable. We need, all need to assess the mitigation efforts of every institution, notwithstanding charter-type.

My question, if I have still some time left, is to the follow-on to the issues of obstacles to mitigation efforts by the servicers I think this is really at the heart of the question because each obstacle is going to require a different legislative remedy.

Is it the capacity; is it the restrictive pooling agreements, the pooling service agreements, which I think have been overstated; is it the fear of litigation, or that may require safe harbor that's truly a fear; or is it that they're just waiting to see if the government is going to share in re-defaults? I'd be interested in your thought as to the critical obstacles that need to be addressed and that we should be recommending to Congress.

Ms. NORTON. I think there are several, and I wish I could give you one particular answer. Unfortunately from our observations, that's not the case.

There is, and from my colleagues that are in the servicing side, the lending side, there really is the threat of litigation, but from my review of the pooling and servicing agreements, there tends to be broad language in which servicers do have that, you know, option to engage in loss mitigation when it's going to prevent losses, and I think the example that we've given, if they're going to take a $70,000 loss at a foreclosure sale, why is it you can't knock $20,000 off of principal?

So that brings in a fear or a reluctance and the reluctance, I think, does go somewhat to the capacity issue, but there are solutions. We've mentioned technology before and servicers do use automated models. I've seen two demonstrations of two different software models which, if they were made available, whether to housing counselors or to their borrowers, you could log in, enter your information, enter your budget information, the reason for your hardship, and have an answer on the spot.

We've seen 30 seconds of this because the pooling and servicing agreements are entered into these systems. They're not used in my office and SEED and others around the state of Maryland still have to go through this three-to-five-month process of obtaining the answer that could be provided within a matter of minutes.

So that's one of the fear frustrations, and I think that is a capacity issue in terms of perhaps they do not have the manpower, but at the same time, I think technology, like in the origination model, has supplemented that. They already have it available. Many have already adopted these systems. They just are not providing those, whether it is to the borrowers or to the housing counseling agencies, pro bono attorneys, whomever.

You can do online banking but you can't do online loss mitigation. It should be one and the same. If you have an account, you have an account.

I know the bankruptcy issue we have discussed at length, but I think that is a fine line, I think I called it perverse incentive in my testimony, in that that is the final say to the investor if you've already provided this discretion through your servicers to engage in meaningful loss mitigation and loan modifications and principal reductions where it is going to provide a savings which in fact it does or it mitigates the losses that will be realized. So now the alternative is we'll let a bankruptcy judge cram down the value to the recurrent principal market rate and I think that's—unfortunately, something like that is going to be the tool needed to really source these technological advances that they can have access to really implement those and put those into practice.

Mr. NEIMAN. Thank you very much. Very solid.

Ms. WARREN. Thank you. Thank you very much.

Mr. PEREZ. Thank you for your time.

Ms. WARREN. I want to thank this panel not only for coming here today and exchanging your ideas with us but also for the work you are doing day-in and day-out in a time of real crisis. Very much appreciate it. Thank you very much.

Mr. PEREZ. Thank you.

[Applause.]

Ms. WARREN. And now we're going to have a brief opportunity for open mics at the two mics. If you'll just line up, we'll go back and forth, one at a time, and I'm going to ask our timekeeper just because I want to give everybody a chance, better that we hear a little bit from more people than a long story from just one or two. I'm going to ask him to stand up where you can see him and he's going to hold it up the whole time. We'll have one minute and I'm going to ask you to stop when it goes to zero.

So if you would identify yourself for the record, please? Ma'am, could I start with you?

Ms. HARRINGTON. Certainly. My name is Mosey Harrington. I'm the Executive Director of Housing Initiative Partnership. We counsel approximately a thousand people a year in the county.

One, we were very worried about a second wave of foreclosures when the five-year work-outs which some lenders are insisting on expire. HomeQ is one that that's particularly true of. We're often taking them because it keeps somebody in their house but it's a lousy deal.

We feel that the government needs to mandate some wholesale resets. The arguments that they can't because the loans were securitized is spurious. Governments can take over banks. They can nationalize fuel industries and they can go to these investors and say I'm sorry, we know you thought you were getting nine percent but you're going to get a nice fair five percent return on your investment which I wish I were getting on my retirement right now.

The new work-out scams have to be reined in. They're often operating just within the law so the law needs to move and that's exactly what was going on with the subprime. Most of those were operating just within the law. The law has got to move.

The reporting requirements that are imposed on the counseling agencies are onerous and are getting in the way of our obtaining work-outs for counselors. A campaign to urge people that are behind on their mortgages to save partial payments so that the lenders—when the lenders refuse to take the whole payment—what I'm saying is they come to us with nothing, even though they haven't made a mortgage payment for five months. So we have nothing to work with. They've used the money to pay other bills. we need to campaign to do that.

The Latino population particularly needs to be reached out to as they're very isolated and were particularly badly hit in this.

We were heartened by the press account of the sheriff in the Midwest who was refusing to do foreclosure evictions because it was a TARP bank that hadn't offered a real work-out. We'd love to see that institutionalized. Why not?

The 50 percent—we'd just like to point out that the 50 percent of the work-outs, we keep hearing this number, the 50 percent of these work-outs that go into default again and I would like to point out that those work-outs are coming from the kinds of repayment plans that Secretary Perez was talking about. They're lousy deals. We're increasing people's payments. Of course they're going to be going into default.

Ms. WARREN. Thank you very much. Thank you.

[Applause.]

Ms. WARREN. Yes, sir.

Mr. DEAN. My name is Samuel Dean. I'm a member of the Prince George's County Council.

The elephant in the room here for Prince George's County is that this is a majority African American community and what we have been faced with is predatory lending.

As an example, Bank of America would give interest-only loans and tell folks in two years, you can roll it over into a 30-year loan and that was done quite often for homeowners. So you put people in a bind going in.

One of the problems that we have with foreclosures here in Prince George's County is that the lifeblood of this county to serve its people is predicated upon receiving taxes from property taxes, transfer taxes, recordation taxes. When you don't sell property, your community is in a crisis and we are in a crisis at this moment.

So there's other issues relative to foreclosure and there's other issues relative to making sure that people stay in their homes. We have a glut. We're ground zero and we're ground zero because of people who look like me and the banks and lending institutions have taken advantage of us. We're no different than what used to occur with redlining.

So I think that there has to be some other things that you have to deal with relative to just dealing with foreclosures. You have to put in legislation and some guidelines that banks, and I'm talking Bank of America—when you use Bank of America, you think that's a legitimate institution that offers a loan that they know is going to have an impact if this bubble bursts.

In the Upper Marlboro area that they talked about, these folks bought into homes that were running $700 thousand to a million dollars and they're in upside down market and so you all need to do more than just say how are you going to rectify the foreclosure.

Thank you.

Ms. WARREN. Thank you. Thank you very much, Mr. Dean.

Yes, ma'am.

Ms. GOLDSBY. Good morning. My name is Terri Goldsby. I'm a resident of Upper Marlboro, and I want to thank Mr. Silvers, is that your name, for talking about sticks.

I listened to the three options and I want to preface my stick with the fact that I listen to C–SPAN a lot and I hear a lot of the congressional debates going on.

My stick has to do with activity. I understand that the Commonwealth of Virginia prosecuted successfully and convicted three sets of fraudulent individuals or companies in the whole real estate chain back in 2008 and the chain involved loan originators, appraisers, real estate agents and lending institutions. According to the article that I read in the Post, the fact set was that there was a concerted intentional effort to go into neighborhoods, inflate the value of the home through the appraisal, get the loan, and then resell it and continue the process, so that our neighborhoods were being inflated for X number of reasons.

I suggest that a way to counterbalance the 124 percent inflation is to roll back the value of homes back to 2001, before these nationwide all across the board and when those values are set, they won't be at rock-bottom prices. They will be at 2001 prices. Buyers will be induced into buying. The mitigators will have a set place where they can go in—they're going to lose but they're not going to lose as bad as foreigners coming in and buying it at rock-bottom prices.

Ms. WARREN. Thank you. I just want to remind you all that you can also e-mail us, so we can hear from you at cop.senate.gov. If you don't want to stand up or if you don't have enough time to say all you want to say, I encourage you to do that.

Yes, ma'am.

Ms. RICHARDSON. Good morning. Is it still morning, that is?

Ms. WARREN. For a few more minutes.

Ms. RICHARDSON. My name is April Richardson, and I'm from the Prince George's County States Attorney's Office, and I've prepared brief notes.

This is not just a loan modification issue. This is not only about hearing the stories of desperate homeowners in need of a solution. It's about cleaning up the industry by holding scammers accountable for victimizing our residents in foreclosure distress.

As mentioned before, Prince George's County is ground zero for foreclosures in Maryland and as a result, we are ground zero for mortgage, real estate, and foreclosure fraud. We are at the heart of equity-stripping schemes. We are at the heart of fake buy-outs. We are the heart of fraudulent deeds.

Our seniors, they're being scammed by reverse mortgage schemes designed to take their homes and to take their equity. There is a great need to hold unscrupulous lenders, loan officers, attorneys, appraisers, criminally accountable for the vulnerable positions that they have put this county in.

When you have an opportunity to review your reports and findings from hearings such as this, think about the need for local funding of law enforcement agencies such as my own to send a message and that message is as it pertains to real estate and foreclosure fraud, the game is over and they will serve jail time.

Thank you.

[Applause.]

Ms. WARREN. Thank you. Thank you, Ms. Richardson. Yes, sir.

Mr. KAGMAN. Good morning, Madam Chair, Members of the Panel. My name is Billy Kagman. I'm a housing counselor here in Prince George's County, former Executive Director for Cairos Development Corporation.

One thing I want to bring to the panel's attention and to the audience is we always talk about the loan servicers and, first and foremost, we need to understand what their primary role is—that is, debt collection. They are not equipped to do loss mitigation and some the other things. So we're looking at an organizational culture that needs to be restructured. That's my first comment.

Secondly, as far as loss mitigation actions within itself, I feel that the best process is not to have it at the federal level or the technology as Anne and some of the others mentioned, but move it at the state level. The state's Department of Housing and Community Development should have the apparatus to make this technology work so that they can monitor what the servicing communities are doing and then interact with the housing counseling agencies.

As far as the housing counseling agencies are concerned, we need more money. There's always been talk about capacity. Our capacity is stretched. Funding is urgently needed. We are the people on the ground. We're here. We hear the cries. It was very heartening to hear some of the comments from the first panel, but we hear that all the time and we would just ask that you all take everything that you hear today and understand that this is not related to Prince George's only. You can probably replicate this throughout the United States.

Thank you.

Ms. WARREN. Thank you very much. Thank you, Mr. Kagman.

Yes, ma'am?

Ms. TUCKER-ROSS. Good morning. My name is Catherine Tucker-Ross. I'm a resident of Prince George's County, residing in Clinton, Maryland.

I want to thank the panel for holding this oversight hearing. I want to echo the sentiments of the U.S. Attorney in arresting these people. As a former law enforcement officer, I think it's criminal what has occurred to us here in Prince George's County.

I want to thank Senator Sununu for asking about the brokerage with Mr. Perez. I do think that Prince George's County and the State of Maryland was fertile ground for people to come in and offer subprime loans and do what they did to the citizens here, and I do believe that the U.S. Attorney stated that they should be arrested or somebody should be held accountable for this.

I'm sitting at my kitchen table working out my budget and when I look at my budget, I look at the 30-year fixed Federal Housing Act. What I'm asking for is that you consider extending that Act beyond 30 years. Car dealers are doing it. They're extending loans

36, 72 months, whatever the case may be. Look at that for case-by-case basis.

Along with that, bring my property value back to its market value.

With that, I'm looking at my FICO score. How can I modify my loan, receive modification, if you tell me my credit score's 400? I'm still not getting anywhere. So we also need to look at the FICO score, the market value, as well as the FHA Act.

I don't live on main street. I never went to Wall Street. I live on my street and my community and I'm asking you to keep these people's hands out of my pocket and out of my mailbox because that's what's occurring and whatever you need to legislate to do that, please do so because even today, I am constantly receiving modification loans, requests to refinance, we'll give you, you can have, you're pre-approved. So whatever you need to do, get them out of our pockets and shut them down.

Thank you.

Ms. WARREN. Thank you.

Yes, sir?

Mr. WALAMU. Good morning. It's still morning or early afternoon. I want to thank you——

Ms. WARREN. Could you identify yourself for the record, please?

Mr. WALAMU. Yes. I'm Shahaali Walamu. I live in Upper Marlboro, Maryland, and I'm the President of the African-American Democratic Club of Prince George's County.

One of the things that I want to do is thank you for holding this important hearing here in Prince George's County where our neighbors and communities are on fire with foreclosures.

First, I would like to say that if they automate the process of mediation when people go into foreclosure they can very easily save time, save expenses, and provide some emotional support to people who have to face foreclosure, and I would like to remind each of us that spent a lot of time trying to buy a house and when they go into foreclosure, it seems like it takes forever and ever and ever and the process never goes away in 10 years. We need help.

Thank you.

Ms. WARREN. Thank you, sir.

Yes, ma'am?

Ms. LARAMIE. Hi. Good morning. My name is Jennifer Laramie. I am with the Pro Bono Resource Center, and I'm the Project Manager of the Foreclosure Prevention Pro Bono Project, the project that Phillip Robinson spoke of this morning.

I just wanted the opportunity to introduce myself and to thank you for the work that you're doing and just to expand on a couple of Phillip's comments about the project.

I did want to reiterate that we do have a Resource Guide on the back table for any homeowners that want to pick one up on their way out. That guide will have our upcoming workshops where we're bringing pro bono attorneys to provide free one-on-one legal advice to homeowners who bring their loan documents and information about their monthly budget.

There is a way to pre-register for those workshops on the Resource Guide that will guarantee you a free legal consult if you come to that particular workshop. So please do take advantage of that information.

I also just wanted to reiterate the importance of the Maryland HOPE Hotline to our project. That's 1–877–462–7555. That is the line that homeowners can call to be determined whether they are eligible for referral to a pro bono attorney to actually represent them in negotiations with their lender to modify their loan. So I encourage homeowners to call that hotline and I encourage everyone in this room to spread the word about that because that is the way to be matched with one of our pro bono attorneys.

We did submit some written testimony from the Pro Bono Resource Center, so hopefully you have that in your materials.

Thank you.

Ms. WARREN. Thank you.

Yes, ma'am?

Ms. WILSON. Hi. My name is Cynthia Wilson, and I'm a resident of Prince George's County, and I do realize it is now lunch time, so I will be brief in my comments.

I really just want to underscore the importance of the impact of the declining property values in Prince George's County. We've touched on it. Many of the panel members spoke of it, but there are a majority, I would say, I don't know the exact statistic, but a majority of Prince George's County homeowners are underwater and for those of us who may still be current on our mortgages, we are not able to refinance our loans because of the declining property values.

Now, I'm encouraged by the preliminary Affordability and Stability Plan put out by the Administration that will attempt to address this group of homeowners, but my concern, as a Bank of America customer, is that the bank will not be incentivized to actually do anything for us until we become delinquent on our mortgages.

So in my case, for example, your statistic said that there was a 124 percent run-up between 2000 and 2007. I bought my home in 2007. So you can imagine where that places me. So I have an interest-only loan.

So if Bank of America won't talk to me because I've tried to ask them for a streamlined refi, something to that effect, they won't do it. If they won't talk to me until I'm delinquent and I'm already significantly underwater and last year I paid $22,000 of mortgage interest alone, what would you do if you were me?

That's all I have to say. Thank you.

Ms. WARREN. Thank you.

Yes, ma'am?

Ms. GRAY. Hi. Good afternoon. I want to thank the panel. I'm the President of the Brandywine Neighborhood Coalition, and I just wanted to add another piece to what—oh, Camita Gray. I just wanted to add another piece to everything that everybody has said as to predatory lending as to loans, but the main thing that I see is the service providers not willing to remodify the loans and also they're doing it for two to three years and I think there needs to be some regulation there.

The other thing is with the RESPA. Some of the homeowners are not—the loss of income or loss of job is not the main reason for them losing the house. The other part is the RESPA, the escrow increasing every year and they're not able to make that payment, and I think that needs to be looked at.

A couple of people have lost their houses because of the loan—the service provider can ask for that 1⁄16 when it's not needed. So I think that needs to be looked at and I will submit some written comments.

Thank you.

Ms. WARREN. Thank you. Thank you. Anyone else who wishes to speak?

[No response.]

Ms. WARREN. Then I will bring this hearing to a conclusion by thanking you all for coming here.

I want to thank all of those who spoke. I want to thank all of those who came just to listen.

It is important that we hear this from the ground. This is not just a bunch of abstract numbers and statistics. We need to hear it. We need to see faces. We need to hear voices and what you bring to us makes its way into our reports and what we take back to Congress as part of our description and our recommendations for what happens as we try to work together for economic recovery.

But I want to make one last plea and that is, I appreciate your coming today, but this crisis is not over and the fight to resolve it is not over. Indeed, the fight is just beginning. The voices of those who helped bring us this crisis and who have profited handsomely from it are well heard in the halls of Washington. They are well heard in our state legislatures and they are still active. We must fight back.

So thank you for coming here today, but please don't regard this job as finished. Please continue to show up, to be heard, to speak out, to reach out in every possible way you can. Our country needs you.

Thank you.

[Applause.]

[Whereupon, at 12:05 p.m., the panel was adjourned.]

○